

ANALYSIS OF SHARIA ECONOMIC LAW AND POSITIVE LAW PERSPECTIVES OF PRELOVED SKINCARE SALES ON INSTAGRAM

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Abstract

The purpose of this study is to find out the law of buying and selling preloved skincare on the Instagram application through the @prelovedskincare.ori account and learn the application of Law Number 19 of 2016 concerning ITE to buying and selling preloved skincare online. The method used in this research is a case study method with qualitative data types. The results obtained from this research are the practice of buying and selling preloved skincare, starting with a sale transaction between the owner and the account owner @prelovedskincare.ori. The second is buying and selling between the account owner @prelovedskincare and the buyer. Based on an analysis of Sharia economic law, selling point transactions between preloved skin care owners and @prelovedskincare account owners use ijarah contracts. In contrast, transactions between @prelovedskincare account owners and buyers buy and sell contracts and wakalah bil ujarah contracts. The ijarah contract and the parties' sale and purchase follow the pillars, terms, and conditions determined. The @prelovedskincare account has the right to get ujarah for its buying and selling services. As for the object of sale and purchase, even though the skincare is a used item, the parties have ensured that the preloved product is still usable and safe for users. The parties have also implemented Article 18 of Law Number 19 of 2016 ITE regarding legal requirements for electronic transactions.

Keywords: Online Transactions; Positive Law; Preloved Skincare; Sharia Economic Law.

Abstrak

Tujuan penelitian ini untuk mengetahui hukum jual beli preloved skincare di aplikasi instagram melalui akun @prelovedskincare.ori dan mengetahui penerapan Undang-Undang Nomor 19 Tahun 2016 tentang ITE terhadap jual beli preloved skincare secara online. Metode yang digunakan dalam penelitian ini

adalah metode studi kasus dengan jenis data kualitatif. Hasil yang diperoleh dari penelitian ini praktik jual beli preloved skincare, diawali oleh transaksi titip jual antara pemilik preloved skincare dan pemilik akun @prelovedskincare.ori, kemudian yang kedua terjadi jual beli antara pemilik akun @prelovedskincare dengan pembeli. Berdasarkan analisis hukum ekonomi syariah, transaksi titip jual antara pemilik preloved skincare dan pemilik akun @prelovedskincare adalah menggunakan akad ijarah, sementara transaksi antara pemilik akun @prelovedskincare dengan pembeli adalah akad jual beli dan akad wakalah bil ujarah. Baik akad ijarah dan jual beli yang dilakukan oleh para pihak telah sesuai dengan rukun, syarat dan ketentuan yang telah ditetapkan. Akun @prelovedskincare berhak mendapatkan ujarah atas jasa jual beli yang dilakukannya. Adapun objek jual beli, meskipun skincare tersebut merupakan barang bekas pakai, tapi para pihak telah memastikan bahwa produk preloved tersebut benar-benar masih layak pakai dan aman bagi pengguna. Selain itu, para pihak juga telah menerapkan Pasal 18 Undang-Undang Nomor 19 Tahun 2016 ITE terkait syarat sah transaksi elektronik.

Kata Kunci: *Hukum Ekonomi Syariah; Hukum Positif; Preloved Skincare; Transaksi Daring.*

A. INTRODUCTION

At the beginning of its appearance, the Instagram application was only used for social interaction between users via the Internet. The Instagram application is a social and entertainment media. However, as the online buying and selling system develops, the Instagram application can also be used as a business medium, namely online buying and selling between Instagram users. To use Instagram, one needs to upload photos or videos through a registered account on the social media platform. Other accounts can follow each account. These followers can view the uploaded photos or videos and leave likes and comments.¹

Instagram is one of the applications most followed by Indonesian people.² This application is starting to change from social media to business media so that the Instagram application can be used as an effective communication and marketing medium. In the Instagram

¹ Monica Utari, "Pengaruh Media Sosial Instagram Akun @princessyahrini Terhadap Gaya Hidup Hedonis Para Followersnya," *JOM FISIP* 4, no. 2 (2017): 1–22.

² Nur Anisah, Maini Sartika, and Hendra Kurniawan, "Penggunaan Media Sosial Instagram Dalam Meningkatkan Literasi Kesehatan Pada Mahasiswa," *Junral Peurawi; Media Kajian Komunikasi Islam* 4, no. 2 (2021): 94–107.

application, many influencers are now appearing.³ Actresses can be influencers, but influencers are not limited to artists. Every account with thousands or even millions of followers can become an influencer, known as a celebrity.⁴ Influencers actively create content that is interesting to their followers.⁵ So, it is not surprising that many products are currently marketed through influencers on the Instagram application. The presence of these influencers has increased online buying and selling on the Instagram application.⁶

In its development, online buying and selling via the Instagram application is not only through influencers but also directly through business accounts. Each business account will provide shopping links, such as websites, Shopee, Tokopedia, Bilibli, TikTok, WhatsApp, and even via Instagram direct messages themselves. Currently, buying and selling via the Instagram application has become something commonplace to do. Even when they want to buy something, consumers will usually search for and view products on Instagram first, looking at photos or videos of the product. Then, follow the link on the Instagram profile or search for the product name on the marketplace.

One of the developments in online buying and selling on the Instagram application is buying and selling used goods, usually called

³ Ni Made Nita Pradnyaning Putri and I Dewa Ayu Dwi Mayasari, "Perlindungan Hukum Bagi Konsumen Dalam Jual Beli Barang Bekas (Preloved) Melalui E-Commerce," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 5 (May 2022): 1169, <https://doi.org/10.24843/ks.2022.v10.i05.p16>.

⁴ Safira Hasna et al., "Selebriti Dan Fandom Di Era Media Sosial: Fenomena Selebgram," *Jurnal Al Azhar Indonesia Seri Ilmu Sosial* 03, no. 1 (2022): 2745-5939, <https://doi.org/10.36722/jaiss.v%vi%i.893>.

⁵ Heny Handayani, "Implementasi Sosial Media Influencer Terhadap Minat Beli Konsumen: Pendekatan Digital Marketing," *Jesya* 6, no. 1 (January 2023): 918-30, <https://doi.org/10.36778/jesya.v6i1.1023>.

⁶ Amelia Ibnu Wasiat and Eka Friana Bertuah, "Pengaruh Digital Marketing, Social Media Influencer Terhadap Niat Beli Produk Fashion Pada Generasi Milenial Melalui Customer Online Review Di Instagram," *SINOMIKA Journal: Publikasi Ilmiah Bidang Ekonomi Dan Akuntansi* 1, no. 3 (August 2022): 513-32, <https://doi.org/10.54443/sinomika.v1i3.295>.

preloved or secondhand.⁷ Several people use this preloved business to sell unused items with little capital⁸ In Sharia Economic Law literature, preloved buying and selling are known as '*wadhi'ah*' buying and selling. The *wadhi'ah* sales contract has the same concept as preloved sales because the seller sells the contract object at a lower price than the purchase price so that the sales transaction does not make a profit as a purpose. In contrast, in business practice, it uses a warehouse clearance system with a selling price lower than the buying price and requires the buyer to know the buying price of the goods that are the object of the buying and selling.⁹

Buying and selling preloved goods has been done for several years, but this type of buying and selling is increasingly being done after online buying and selling is implemented.¹⁰ One of the buying and selling preloved products online is skincare products.¹¹ Buying and selling preloved skincare is in great demand among teenagers and adults because skincare is currently a basic need for women and men to care for and beautify themselves. Preloved skincare products are used by other people who are no longer using them or have not been using them. Usually, someone sells it because it is unsuitable when used, so it is resold at a lower price than the regular price. This creates an opening for fraudulent

⁷ Suci Hayati, "Perlindungan Konsumen Dalam Jual Beli Barang Bekas Tinjauan Hukum Ekonomi Syariah," *Adzkiya: Jurnal Hukum Dan Ekonomi Syariah* 7, no. 2 (2019), <https://doi.org/https://doi.org/10.32332/adzkiya.v7i2.1784>.

⁸ Naila Rizky Maulida, Rajabiyah Khoirotin Ni'mah, and Rizka Nur Aini, "Jualbeli Pakaian Preloved Di Royal Plaza Surabaya Perspektif Kaidah Hukum Ekonomi Islam," *El-Qist: Journal of Islamic Economics and Business (JIEB)* 9, no. 1 (2020): 46-57, <https://doi.org/10.15642/elqist.2019.9.1.46-57>.

⁹ Jaih Mubarak and Hasanudin, *Fikih Muamalah Maliyah: Akad Jual-Beli*, 3rd ed. (Bandung: Simbiosis Rekatama Media, 2020).

¹⁰ Efrianti and Nurul Ilmi Idrus, "Preloved Shopping: Jual Beli Online Dan Pengelolaannya Di Instagram," *Jurnal Emik* 3, no. 1 (2020): 55-79, <https://doi.org/https://doi.org/10.46918/emik.v3i1.578>.

¹¹ Nur Latifah et al., "Purchase Intention of Second Hand Cosmetics under the Influence of Attitude and Perceived Risk," *Indonesian Business Review* 5, no. 2 (2022), <https://doi.org/https://doi.org/10.21632/ibr.5.2.99-117>.

business actors because skincare products are no longer sealed, which causes product defects and reduces the product's authenticity.

The influence on buying and selling preloved online on social media is not only from the influencer but also the brand and price. Brand image is considered one of a person's considerations when carrying out buying and selling transactions because it will reflect themselves in front of others. Apart from that, price is also an essential factor for everyone in buying and selling transactions.¹² Apart from wanting good quality, consumers also definitely want affordable prices. That is why brand image and price influence a person's decision to buy out a preloved merchandise. Buying and selling preloved will provide a brand image that is what is desired and provides a lower price even though the brand is second hand goods.¹³

Buying and selling using an online system has various risks, including the mismatch between the goods ordered and the goods delivered.¹⁴ Problems commonly occur in online buying and selling include the goods purchased not being as described, the goods received being defective, and the goods not arriving within the specified period. So, in Islamic law, this can give rise to *gharar* and result in fraudulent practices or transactions.¹⁵ Therefore, online buying and selling require at least two laws, namely consumer protection law (protection of consumers) and a law that regulates agreements or contracts (breach of contract), such as when an agreement occurs in online buying and selling

¹² Lianita Widyaratna and Ahmad Zainuri, "Pengaruh Brand Image, Harga, Dan Fashion Lifestyle Terhadap Keputusan Pembelian Pakaian Preloved Di Thriftshop," *Journal Of Comprehensive Science* 2, no. 4 (2023): 1-8, <https://doi.org/https://doi.org/10.59188/jcs.v2i4.300>.

¹³ Maria Augustin Lopes Amaral and Gaudensius Djuang, "Relationship Between Social Influence, Shopping Lifestyle, and Impulsive Buying on Purchase Intention of Preloved Products," *KINERJA* 27, no. 1 (March 2023): 91-106, <https://doi.org/10.24002/kinerja.v27i1.6635>.

¹⁴ Andeka Widodo and Fahrizal, "Implementasi Etika Bisnis Islam Dalam Bisnis Berbasis Teknologi Komunikasi (Studi Pada Marketplace Shopee)," *Jurnal Mauizoh* 7, no. 2 (2022): 1-19, <https://doi.org/https://doi.org/10.30631/mauizoh.v7i2.66>.

¹⁵ Munir Salim, "Jual Beli Secara Online Menurut Pandangan Hukum Islam," *Jurnal Al-Daulah* 6, no. 2 (2017): 373-373, <https://doi.org/https://doi.org/10.24252/ad.v6i2.4890>.

or the skills of the parties at the time. Carrying out online buying and selling and legal jurisdiction issues and legal cases that must be implemented (applicable law) if a dispute occurs.¹⁶

The risks experienced by preloved buying and selling consumers are more significant than those experienced by ordinary consumers. Apart from the problems that commonly occur in online buying and selling, preloved consumers are more susceptible to getting a product that is not suitable in terms of quality and quantity.¹⁷ In terms of quality, a used product will give the impression that the authenticity of a product will be reduced, whether in terms of product use or product hygiene. Meanwhile, in terms of quantity, a product's discrepancy (in skincare, there is usually a description of the amount of product content written in weight units) is due to the dishonesty of sellers in providing explanations of a product.¹⁸

The government provides legal certainty by issuing regulations related to online buying and selling, namely the Law on Information and Electronic Transactions, as a form of the government's responsibility to protect activities associated with information and communication technology to avoid potential crime and misuse. The ITE Law regulates various matters relating to electronic information and transactions, one of which concerns the rights and obligations of sellers and buyers.¹⁹

The seller (merchant) has rights and obligations to provide truthful information or data regarding the products being sold.²⁰ That is regulated in article 9 that "Business actors who offer products through electronic

¹⁶ Rifan Adi Nugraha, Jamaluddin Mukhtar, and Hardika Fajar Ardianto, "Perlindungan Hukum Terhadap Konsumen Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Online," *Jurnal Serambi Hukum* 8, no. 2 (2014).

¹⁷ Ahmad Fauzi and Ahmad Fauzi, "Jual Beli Pakaian Bekas Dalam Perspektif Fikih Muamalah Iqtishodiyah," *Iqtishodia: Jurnal Ekonomi Syariah* 4, no. 2 (2019): 235-67, <https://doi.org/https://doi.org/10.35897/iqtishodia.v4i2.245>.

¹⁸ Yunita Ramlah Sari Siregar and Nursania Dasopang, "Jual Beli Kosmetik Bekas Dikalangan Mahasiswa," *Jurnal El-Thawalib* 3, no. 2 (2022): 326-36, <https://doi.org/10.24952/el-thawalib.v3i2.5327>.

¹⁹ Abdul Halim Barkatullah, *Hukum Transaksi Elektronik*, 2017.

²⁰ Dzikrulloh, "Jual Beli Dropshipping Dalam Bisnis Online (Tinjauan Terhadap Proses Dan Objek Transaksi Dalam Bisnis Dengan Sistem Dropshipping)," *Dinar: Jurnal Ekonomi Dan Keuangan Islam* 1, no. 2 (2014): 1-16, <https://doi.org/https://doi.org/10.21107/dinar.v1i2.2724>.

systems must provide complete and correct information regarding contract terms, manufacturers and the products offered.”²¹ Specifications regarding the product must be detailed, including price, description, category, characteristics, and size. That is very important in electronic transactions because the buyer cannot see the product to be purchased directly.

The buyer's rights have been fulfilled and are legally protected. However, online buying and selling is still not safe for consumers because there are still many cases of cheating and fraud committed by business actors, causing harm to consumers.²² Moreover, in online buying and selling, buyers need help to see the goods they want to buy directly, which results in discrepancies between the goods listed in the catalogue and the goods received by the buyer (consumer).²³ In this case, consumers must apply and prioritise the principle of caution when conducting contractual relations via the Internet.²⁴

Based on the background above, there are two problems studied in this research, namely the law of buying and selling preloved skincare online on the Instagram application from the perspective of Sharia Economic Law and the application of Law Number 19 of 2016 concerning ITE to the buying and selling of preloved skincare online in Instagram application. The aim is to determine whether, according to Sharia Economic Law, buying and selling preloved skincare online using Instagram is legal and permitted, considering that the object of buying and selling here is used skincare goods. Skincare is a product for the skin that can have side effects for its users. Apart from that, in Sharia Economic Law, buying and selling objects have terms and conditions that must be fulfilled. Meanwhile, implementing the ITE Law is important because

²¹ Dewan Perwakilan Rakyat, “Undang-Undang Nomor 19 Tahun 2016 Tentang ITE,” 2016.

²² Ambar Wariati and Nani Irma Susanti, “E-Commerce Dalam Perspektif Perlindungan Konsumen,” *Jurnal Ekonomi & Bisnis*. Edisi Nopember 1, no. 2 (2014).

²³ Elya Mahmada and Indri Fogar Susilowati, “Tanggung Jawab Penjual Terhadap Barang Yang Tidak Sesuai Dalam Perjanjian Jual Beli Secara Daring Di Lazada,” *Novum: Jurnal Hukum In Press*, no. 18 (2023): 23–33, <https://doi.org/https://doi.org/10.2674/novum.v2i2.53338>.

²⁴ Abdul Jalil, “Hukum Perjanjian Islam (Kajian Teori Dan Implementasinya Di Indonesia),” *CENDEKIA: Jurnal Studi Keislaman* 6, no. 2 (2020): 214–33.

buying and selling are done online via the Instagram application.

B. METHOD

This research adopts a qualitative approach, employing a case study method to delve into the intricacies of the topic. The data gathered is of a qualitative nature, emphasizing a profound comprehension of the issue under scrutiny. Qualitative research presentation involves written data derived from both primary and secondary sources, utilizing an inductive process that initiates with meticulous data collection. The case study method, chosen for its ability to comprehensively examine contemporary issues or phenomena with depth and detail, will be employed. The initial focus of the study will be on understanding the intricacies of buying and selling preloved skincare through the Instagram application. Subsequently, an analysis of these transactions will be conducted, applying principles from Sharia Economic Law and Positive Law through Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE)

The findings, derived from primary and secondary data, will be qualitatively presented, offering a detailed and nuanced perspective on the subject. Primary data sources were obtained through data collection techniques, including indirect observation and structured interviews. Indirect observations were conducted on the Instagram application, while structured interviews were carried out with preloved skincare owners, the owner of the @prelovedskincare.ori account, and buyers. Additionally, secondary data sources, such as the *Ijarah* Agreement, *Salam* Agreement, *Wakalah Bil Ujrah* Agreement, Law Number 19 of 2016, and relevant literature on buying and selling preloved items, were utilized to complement and enhance the primary data.

C. RESULTS AND ANALYSIS

The mechanism for buying and selling preloved skincare begins with the owner, who entrusts the sale of his products to the account @prelovedskincare.ori. The preloved skincare owner will provide a product description. After a sale and purchase occur between the preloved skincare owner and the @prelovedskincare.ori account, the @prelovedskincare account will offer these products on its Instagram

account. The @prelovedskincare account will advertise these products by uploading photos of the products and posting them on the @prelovedskincare.ori account. The product photo includes information on size, composition, price, and reason for sale.

Figure 1

Example of preloved skincare products sold by @prelovedskincare.ori.



Source: @prelovedskincare.ori account

Figure 2

Preloved skincare product information on the @prelovedskincare.ori account.

Ig : @Ranirn31	6.moisturizer emina bright stuff
Wa : 082118216751	Acne
Shopee/tokped :	90% Rp. 15.000
Dom : Bandung	7.Facial wash Benings
	98% Rp. 50.000k
1. cultusia creambath 1000ml	8.justmine beauty skincare
New Rp. 35.000	Serum Acne
	85% Rp. 50.000
2.cushion somethinc hooman	9.Daviena skincare
Shade Nina	Serum Gold
85% Rp. 50.000	New Rp. 50.000
3.cushion somethinc hooman	10.HnH
Shade Natural Beige	advance retinol serum
95% Rp. 15.000	95% Rp. 80.000
4.facial wash hnh	11.avoskin
btightening Ultimate	exfoliating serum
85% Rp. 40.000	95% Rp. 80.000
5.Toner Hnh	12.justmine beauty skincare
btightening Ultimate	Paket Glow (isi 4)
75% Rp. 35.000	New 150.000
	13.justmine beauty skincare
	Paket Acne (isi 4)
	New Rp. 150.000

Source: @prelovedskincare.ori account

Based on an interview with the owner of preloved skincare products (informant 2) as a seller of preloved skincare products on the account @prelovedskincare.ori, the reason for selling preloved skincare products is usually because there is an incompatibility with the product.²⁵ Meanwhile, based on interviews with buyers (informants 4 and 5), the reason they were willing to buy preloved skincare products was that they wanted to try new skincare and did not lose out if the product was not suitable because the price of preloved products was lower than products from official stores.²⁶

The actual price determination is carried out by the owner of the preloved skincare product by considering the product's condition to be sold, such as the remaining amount of the product, the product's purchase price, demand for a product, and the product's expiration date.²⁷ Product owners also set prices for preloved goods by considering the use of set prices.²⁸ However, the final price is set by the @prelovedskincare.ori account owner. This determination is based on the cost from the preloved skincare owner plus the selling fee as a profit for the @prelovedskincare.ori account owner. The prices listed by the @prelovedskincare account do not include shipping costs. The shipping costs are charged to the buyer according to the delivery address.

Payment for buying and selling preloved skincare via the @prelovedskincare.ori account is made via a joint account. A joint account, commonly called 'rekber,' is provided by the account owner @prelovedskincare.ori as a third party between the preloved skincare owner and the buyer. Preloved skin care owners who use the sales service on the @prelovedskincare.ori account usually need their platform to market their products. Therefore, if the customer uses the services of the @prelovedskincare account, both the owner of the preloved skincare product and the buyer must follow the provisions of the @prelovedskincare.ori account.

These provisions include the following: *First*, the @prelovedskincare account owner will create a WhatsApp group consisting of the @prelovedskincare account owner, preloved skincare product owners, and buyers. The aim of creating this WhatsApp group is to monitor the buying and selling process. *Second*, fill in the data on the owner of the preloved skincare product and the buyer, such as name, cellphone number, account number,

²⁵ Dini Nofrisa, "Pemilik Dan Penjual Produk Preloved," May 2023.

²⁶ Linda Novianti, "Pembeli Produk Preloved," May 2023.

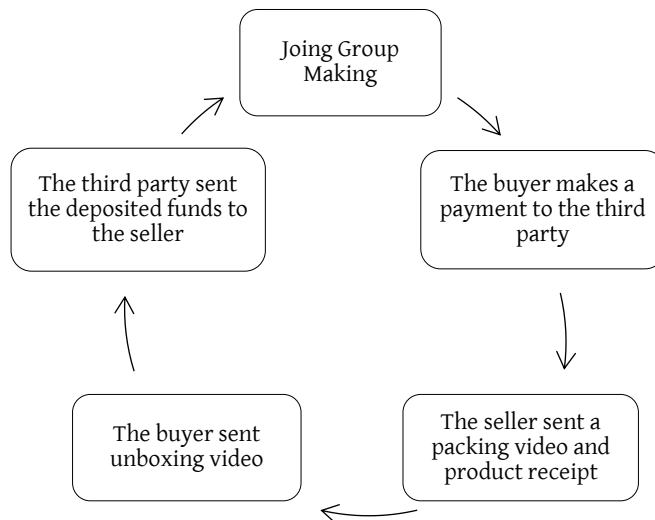
²⁷ Siencina Deva Wintara, "Pemilik Dan Penjual Produk Preloved," May 2023.

²⁸ Nofrisa, "Pemilik Dan Penjual Produk Preloved."

preloved product details, product price, delivery address, service, and delivery costs. *Third*, after determining the payment price, the buyer makes payment by transferring to the joint account provided by the account owner @prelovedskincare.ori.

After making payment, buyers are required to confirm payment. Fourth, the owner of the preloved skincare product creates and sends a video of the packaging of the goods, submits it to the delivery service, and sends the delivery receipt number. Fifth, if the buyer has received the goods, confirm by sending an unboxing video. Sixth, funds deposited with a third party are sent to the owner of the preloved skincare product after deducting the price of the selling service. Seventh, the transaction is complete, and the WhatsApp group is deleted.

Figure 3
Preloved skincare transaction flow using the Rekber System



1. Sharia Economic Law Analysis on Online Transactions of Preloved Skincare on Instagram

After finding out the mechanism for buying and selling preloved skincare online via the @prelovedskincare account, it turned out that there were two transactions carried out, namely: First, a transaction between the owner of the preloved skincare product and the account owner @prelovedskincare.ori in the form of a selling tip; Second, transactions between the @prelovedskincare account owner as a third party (intermediary) and the buyer. Therefore, the author uses the

muamalah fiqh contract theory regarding *Ijarah*, Sale, and Purchase of *Salam* and *Wakalah bil ujarah*. The *muamalah fiqh* contract theory of *Ijarah* analyses the sales transaction between the product owner and the @prelovedskincare.ori account owner. Meanwhile, the contract theory regarding *Salam* and *Wakalah bil ujarah* analyses buying and selling transactions between the @prelovedskincare.ori account owner and the buyer.

Based on *muamalah fiqh* literature, *ijarah* is an agreement to utilise goods or services accompanied by *ujrah*. A service utilisation agreement is a sales transaction between the owner of preloved skincare goods and the owner of the @prelovedskincare account. As a third party, the account owner provides services via the Instagram platform to market preloved skincare products and find potential buyers. The account owner must upload attractive photos to attract potential buyers. Apart from that, the account owner must provide detailed information regarding the product so that potential buyers feel confident and decide to buy. For their services, the owner of the @prelovedskincare account is entitled to receive compensation (*ujrah*).

Based on the contract theory regarding *ijarah*, the parties must fulfil the pillars, terms, and conditions. After an analysis, the author found that the sales contract between the owner of the preloved skincare product and the account owner with the username @prelovedskincare.ori has been completed following the agreed-upon terms and conditions.

The object of the service is not a service that is prohibited by Islamic law. The service hired is the service of marketing skincare products on the Instagram page belonging to the @prelovedskincare account. Apart from that, the purpose of the sales contract between the product owner and the @prelovedskincare.ori account owner is not to violate the principles of *muamalah maliyah fiqh*, meaning that there is no element of fraud or harm to other people. The amount of *ujrah* received by the @prelovedskincare account owner is determined by the mutual agreement.

In connection with the sale and purchase transaction between the @prelovedskincare account owner and the buyer, the author analysed the contract theory of *salam* and *wakalah bil ujarah*. *Salam* is an order sale and purchase, where payment is made at the beginning before the goods are handed over to the buyer. Buying and selling preloved skincare on the

Instagram application is included in online buying and selling, meaning that the buying and selling are done via the internet network without seeing the goods directly. However, payment is made first, and the goods will be sent later. The sale and purchase agreement for preloved skincare between the account owner and the buyer has fulfilled the existing pillars, terms, and conditions regulated in the contract theory regarding the sale and purchase of greetings. Even though the object of sale and purchase is used goods, the account owner @prelovedskincare has explained the condition of the goods in detail, so there is no *gharar* (uncertainty) or *tadlis* (fraud) in the transaction. Buying and selling preloved skincare via the Instagram application also benefits both parties.

Using a joint account system (*rekber*) in buying and selling preloved skincare provided by the account owner @prelovedskincare.ori requires the presence of a third party as a representative of the seller and buyer accompanied by compensation. In this regard, the author analysed using the *wakalah bil ujah* contract. *Wakalah bil ujah* is used as a contract in which there is a grant of authority from one party to another party to carry out an action desired by the authoriser accompanied by the granting of *ujrah*. The *wakalah bil ujah* contract between the buyer, seller, and the account owner @prelovedskincare.ori has fulfilled the pillars, terms, and conditions stipulated in the contract theory regarding *wakalah bil ujah*. A third party between the seller and the buyer provides a sense of security in buying and selling transactions because it reduces the risk of fraud, as in the *fiqh* rule that all forms of harm must be eliminated (الضَّرْرُ يُزَالُ).

2. Application of Law Number 19 of 2016 concerning ITE to Online Transaction of Preloved Skincare on Instagram

Currently, all activities related to Internet networks are regulated by law, including activities related to business. The Law on Information and Electronic Transactions is an effort by the government to protect and place restrictions on its citizens when carrying out online activities. Business transactions carried out electronically must have the principles of legal certainty, benefits, prudence, good faith, and freedom in choosing an electronic system to carry out electronic transactions. Buying and selling online has the principle of an electronic law model, so the buyer must also have an online contract or agreement.

Article 18, paragraph (1) of the Law on ITE states that the implementation of electronic transactions as outlined in electronic contracts must be binding on the parties. This article also indicates whether an electronic contract is valid depends on whether the electronic contract is binding for the parties. Article 18 of the ITE Law is further explained in Government Regulation Number 17 of 2019 concerning the Implementation of Electronic Systems and Transactions; the content of the regulation states that electronic contracts are valid if they have an agreement between the parties, are legally competent, there are certain things, and the object of the transaction does not conflict with legislation.

According to the author, the author implemented online buying and selling of preloved skincare products in Law Number 19 of 2016. The reasons include: First, online buying and selling of preloved products has complied with Article 18 concerning the legality of electronic transactions and consumer protection. Buying and selling preloved skincare meets consumer protection because there were no fraud cases until the author conducted research. Second, online buying and selling of preloved skincare has implemented article 19, namely using an electronic system registered with the Electronic System Operator in the form of Instagram and WhatsApp applications.

Third, online buying and selling of preloved skincare has complied with articles 21-22, using electronic agents to send and receive funds in electronic transactions. The electronic agent is an ATM, M-Banking, or other financing platform, such as DANA. In this case, online buying and selling of preloved skincare uses a payment system via BANK and DANA account numbers. Fourth, online buying and selling of preloved skincare has complied with articles 28, paragraph 1 and 45, paragraph 2, concerning criminal sanctions for someone who spreads false information and causes losses. The @prelovedskincare.ori account always provides information related to the products and owners of the preloved skincare products being sold. It provides a joint account system as a form of protection for buyers and sellers.

D. CONCLUSION

The online transaction of preloved skincare involves the buying and selling of used skincare products through the Instagram application. The

@prelovedskincare.ori account acts as a service provider for selling preloved skincare items. This account markets preloved skincare products on its Instagram page, providing information and prices. The contractual arrangement between the owner of preloved skincare and the @prelovedskincare.ori account is governed by the *ijarah* contract, while the contract between @prelovedskincare and the buyer consists of a *salam* contract and a *wakalah bil ujarah* contract. The @prelovedskincare account earns *ujrah* (wages) as compensation for its services in facilitating the sales and providing third-party services during the buying and selling process. Consequently, the entire process of buying and selling preloved skincare via the Instagram application is by Sharia economic law. Furthermore, the @prelovedskincare account ensures compliance with Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE) in its operations.

REFERENCES

- Amaral, M. A. L., & Djuang, G. (2023). Relationship Between Social Influence, Shopping Lifestyle, and Impulsive Buying on Purchase Intention of Preloved Products. *KINERJA*, 27(1), 91–106. <https://doi.org/10.24002/kinerja.v27i1.6635>
- Anisah, N., Sartika, M., & Kurniawan, H. (2021). Penggunaan Media Sosial Instagram Dalam Meningkatkan Literasi Kesehatan Pada Mahasiswa. *Junral Peurawi; Media Kajian Komunikasi Islam*, 4(2), 94–107.
- Barkatullah, A. H. (2017). *Hukum Transaksi Elektronik*.
- Dewan Perwakilan Rakyat. (2016). Undang-Undang Nomor 19 Tahun 2016 tentang ITE.
- Dzikrulloh. (2014). Jual Beli Dropshipping dalam Bisnis Online (Tinjauan terhadap Proses dan Objek Transaksi dalam Bisnis dengan Sistem Dropshipping). *Dinar: Jurnal Ekonomi Dan Keuangan Islam*, 1(2), 1–16. <https://doi.org/https://doi.org/10.21107/dinar.v1i2.2724>
- Efrianti, & Ilmi Idrus, N. (2020). Preloved Shopping: Jual Beli Online dan Pengelolaannya di Instagram. *Jurnal Emik*, 3(1), 55–79. <https://doi.org/https://doi.org/10.46918/emik.v3i1.578>
- Fauzi, A., & Fauzi, A. (2019). Jual Beli Pakaian Bekas dalam Perspektif Fikih Muamalah Iqtishodiyah. *Iqtishodia: Jurnal Ekonomi Syariah*, 4(2), 235–267. <https://doi.org/https://doi.org/10.35897/iqtishodia.v4i2.245>

- Handayani, H. (2023). Implementasi Sosial Media Influencer Terhadap Minat Beli Konsumen: Pendekatan Digital Marketing. *Jesya*, 6(1), 918–930. <https://doi.org/10.36778/jesya.v6i1.1023>
- Hasna, S., Sisingamangaraja, J., Masjid, K., Al Azhar, A., Baru, K., & Selatan, J. (2022). Selebriti Dan Fandom Di Era Media Sosial: Fenomena Selebgram. *Jurnal Al Azhar Indonesia Seri Ilmu Sosial*, 03(1), 2745–5939. <https://doi.org/10.36722/jaiss.v%vi%i.893>
- Hayati, S. (2019). Perlindungan Konsumen dalam Jual Beli Barang Bekas Tinjauan Hukum Ekonomi Syariah. *Adzkiya: Jurnal Hukum Dan Ekonomi Syariah*, 7(2). <https://doi.org/https://doi.org/10.32332/adzkiya.v7i2.1784>
- Jalil, A. (2020). Hukum Perjanjian Islam (Kajian Teori Dan Implementasinya Di Indonesia). *CENDEKIA: Jurnal Studi Keislaman*, 6(2), 214–233.
- Latifah, N., Putri, A., Kamil, F., & Henry, I. (2022). Purchase Intention of Second Hand Cosmetics under the Influence of Attitude and Perceived Risk. *Indonesian Business Review*, 5(2). <https://doi.org/https://doi.org/10.21632/ibr.5.2.99-117>
- Mahmada, E., & Susilowati, I. F. (2023). Tanggung Jawab Penjual Terhadap Barang Yang Tidak Sesuai Dalam Perjanjian Jual Beli Secara Daring Di Lazada. *Novum: Jurnal Hukum, In Press*(18), 23–33. <https://doi.org/https://doi.org/10.2674/novum.v2i2.53338>
- Mubarok, J., & Hasanudin. (2020). *Fikih Muamalah Maliyah: Akad Jual-Beli* (3rd ed.). Bandung: Simbiosis Rekatama Media.
- Nugraha, R. A., Mukhtar, J., & Ardianto, H. F. (2014). Perlindungan Hukum Terhadap Konsumen Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Online. *Jurnal Serambi Hukum*, 8(2).
- Pradnyaning Putri, N. M. N., & Mayasari, I. D. A. D. (2022). Perlindungan Hukum Bagi Konsumen Dalam Jual Beli Barang Bekas (Preloved) Melalui E-Commerce. *Kertha Semaya : Journal Ilmu Hukum*, 10(5), 1169. <https://doi.org/10.24843/ks.2022.v10.i05.p16>
- Rizky Maulida, N., Khoirotin Ni'mah, R., & Nur Aini, R. (2020). Jualbeli Pakaian Preloved di Royal Plaza Surabaya Perspektif Kaidah Hukum Ekonomi Islam. *El-Qist: Journal of Islamic Economics and Business (JIEB)*, 9(1), 46–57. <https://doi.org/10.15642/elqist.2019.9.1.46-57>
- Salim, M. (2017). Jual Beli Secara Online Menurut Pandangan Hukum Islam. *Jurnal Al-Daulah*, 6(2), 373–373. <https://doi.org/https://doi.org/10.24252/ad.v6i2.4890>

- Siregar, Y. R. S., & Dasopang, N. (2022). Jual Beli Kosmetik Bekas Dikalangan Mahasiswa. *Jurnal El-Thawalib*, 3(2), 326–336. <https://doi.org/10.24952/el-thawalib.v3i2.5327>
- Utari, M. (2017). Pengaruh Media Sosial Instagram Akun @princessyahrini Terhadap Gaya Hidup Hedonis Para Followersnya. *JOM FISIP*, 4(2), 1–22.
- Wariati, A., & Susanti, N. I. (2014). E-Commerce Dalam Perspektif Perlindungan Konsumen. *Jurnal Ekonomi & Bisnis. Edisi Nopember*, 1(2).
- Wasiat, A. I., & Friana Bertuah, E. (2022). Pengaruh Digital Marketing, Social Media Influencer Terhadap Niat Beli Produk Fashion Pada Generasi Milenial Melalui Customer Online Review Di Instagram. *SINOMIKA Journal: Publikasi Ilmiah Bidang Ekonomi Dan Akuntansi*, 1(3), 513–532. <https://doi.org/10.54443/sinomika.v1i3.295>
- Widodo, A., & Fahrizal. (2022). Implementasi Etika Bisnis Islam Dalam Bisnis Berbasis Teknologi Komunikasi (Studi Pada Marketplace Shopee). *Jurnal Mauizoh*, 7(2), 1–19. <https://doi.org/https://doi.org/10.30631/mauizoh.v7i2.66>
- Widyaratna, L., & Zainuri, A. (2023). Pengaruh Brand Image, Harga, dan Fashion Lifestyle Terhadap Keputusan Pembelian Pakaian Preloved di Thriftshop. *Journal Of Comprehensive Science*, 2(4), 1–8. <https://doi.org/https://doi.org/10.59188/jcs.v2i4.300>

