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## ANALYSIS OF CONTRACTS AND LEGAL RESPONSIBILITIES IN DIGITAL AFFILIATE MARKETING SYSTEMS

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### Abstrak

The rapid development of digital technology has transformed commercial systems and legal relationships, including the emergence of digital affiliate marketing as a performance-based marketing model. In this system, affiliates promote products or services through digital platforms and receive commissions based on successful transactions. Despite its efficiency, affiliate marketing raises legal and ethical issues such as unclear contractual agreements, misleading promotions, and potential consumer harm. This study aims to analyze the contractual framework and legal responsibilities of merchants, affiliates, and digital platforms from the perspectives of Indonesian positive law and Islamic economic law. Using a normative analytical method, the study examines legal regulations, Islamic legal doctrines, and digital marketing practices related to affiliate systems. The findings show that affiliate marketing practices can be categorized into *ju'alah* and *wakalah bil ujah* contracts, which are valid as long as they fulfill the principles of transparency, fairness, and accountability. Merchants are responsible for product accuracy and commission payments, affiliates must provide honest promotions, and digital platforms must ensure transparent tracking systems and dispute resolution mechanisms. The study also finds that practices involving deception, misinformation, or unclear commission systems contradict the principles of *maqāsid al-sharī'ah*, particularly the protection of property (*hifz al-māl*) and individual rights (*hifz al-nafs*). Therefore, clear contractual terms, ethical promotion standards, and transparent digital systems are essential to create a fair and Sharia-compliant affiliate marketing ecosystem.

**Keywords:** *Digital affiliate marketing, legal responsibility, Islamic economic law, maqāsid al-sharī'ah, Indonesian positive law.*

### A. INTRODUCTION

The development of digital technology has brought fundamental changes to economic systems and legal relationships in commercial activities. Economic

digitalization has led to the emergence of various new business models that utilize online platforms as the primary means of marketing and transaction. In Indonesia, digital economic growth has shown

significant improvement in line with increasing internet penetration, social media usage, and the development of e-commerce platforms as a medium for public transactions<sup>1</sup>. These changes not only affect the technical aspects of transactions, but also give rise to new complexities in the legal relationships between businesses, digital intermediaries, and consumers.

One of the rapidly growing digital marketing models in the digital economy ecosystem is digital affiliate marketing. This system is a form of performance-based marketing, where a third party called an affiliate promotes a merchant's products or services through digital media and receives a commission if they successfully generate a transaction<sup>2</sup>. This model is considered efficient because merchants only pay commissions based on actual results, while affiliates earn income without having to own their own products. Therefore, affiliate marketing has become one of the strategic instruments in modern digital marketing.

However, the practice of digital affiliate marketing is not without legal issues. In practice, the legal relationship between merchants, affiliates, and digital platforms is often based solely on unilateral terms and conditions drafted by the platform. Affiliates are in a weak bargaining position, and consumers are potentially harmed by promotional activities that are manipulative, excessive, or non-transparent. This situation creates legal uncertainty, particularly when consumer losses or disputes between parties arise<sup>3</sup>. In addition, there is still no conceptual clarity regarding the form of contract underlying affiliate marketing practices and

the division of legal responsibility in the event of a violation.

From the perspective of Islamic economic law, every muamalah activity must be based on a contract that is valid, clear, and fair. Islam prohibits all forms of transactions that contain elements of gharar (uncertainty), tadrīs (deception), and injustice, and emphasizes the principles of honesty (ṣidq), trustworthiness, and transparency as the main foundations of economic relations<sup>4</sup>. Therefore, digital affiliate marketing practices need to be analyzed normatively to determine whether the mechanisms and agreements used are in accordance with the principles of Islamic economic law, as well as how the legal responsibilities of the parties should be allocated proportionally.

Based on this background, this study aims to analyze the forms of contracts used in digital affiliate marketing systems and examine the division of legal responsibilities between merchants, affiliates, and digital platforms from the perspective of Islamic economic law and Indonesian positive law<sup>5</sup>. This study is expected to contribute theoretically to the development of Sharia economic law studies that are responsive to the dynamics of the digital economy, as well as practically to business actors, affiliates, and regulators in designing affiliate marketing systems that are fair, transparent, and in accordance with Sharia principles<sup>6</sup>.

This study also responds to the practical need to connect digital business efficiency with Sharia accountability. Recent scholarship on Sharia economic disputes shows that maqāṣid al-sharī'ah can serve as an evaluative basis for protecting rights,

<sup>1</sup> Kementerian Perdagangan Republik Indonesia. (2023). *Peta Jalan Ekonomi Digital Indonesia*.

<sup>2</sup> Ainun Najib. (2024). "A Sharia Perspective on E-Commerce Affiliate Marketing in Indonesia." *Prophetic Law Review*, 6(1).

<sup>3</sup> Republik Indonesia. (1999). *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*.

<sup>4</sup> Wahbah al-Zuhayli. (n.d.). *Al-Fiqh al-Islāmī wa Adillatuh* (Juz 4). Damaskus: Dar al-Fikr.

<sup>5</sup> Nur Kholisah, & Isnaeni. (2025). "Affiliate Business in the Digital Era." *Urwatul Wutsqo*, 14(3).

<sup>6</sup> Al-Syātibī. (n.d.). *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*. Dar Ibn 'Affan.

property, and fairness in contemporary economic relations<sup>7</sup>.

This study is expected to provide theoretical contributions to the development of Islamic economic law studies that are responsive to the dynamics of the digital economy, as well as practical contributions to business actors, affiliates, and regulators in designing an affiliate marketing system that is fair, transparent, and in accordance with Islamic principles.

In addition, this research is also expected to serve as a basis for policymakers in formulating operational guidelines and regulations governing digital affiliate marketing activities. With a clear understanding of contract forms and legal responsibilities, affiliate marketing practices can be carried out ethically, minimizing the risk of disputes and protecting the rights of consumers, merchants, and affiliates. This research also opens up space for further study on the implementation of sharia law in the digital economy, thereby supporting sustainable digital economic growth in accordance with sharia principles.

## B. RESEARCH METHOD

### 1. Research Approach

This study uses a legal-normative approach with the aim of analyzing the form of contracts and legal responsibilities in the digital affiliate marketing system based on the principles of Islamic economic law and Indonesian positive law.<sup>8</sup> The legal-normative approach was chosen because the

focus of the study is a normative review of applicable legal rules, contemporary Islamic legal doctrines, and legal practices in the field.<sup>9</sup> This approach enables researchers to conduct conceptual and comparative analyses of relevant regulations, fatwas, and scientific literature concerning affiliate marketing systems in digital commerce.

### 2. Data Sources

The data in this study were obtained through library research consisting of primary and secondary legal materials.<sup>10</sup> Primary legal materials include Indonesian legislation related to electronic commerce, consumer protection, contract law, and sharia economic regulations.<sup>11</sup> Secondary legal materials consist of academic books, national and international journals, fiqh muamalah literature, fatwas issued by the National Sharia Council – Indonesian Ulema Council (DSN-MUI), and policy documents from digital platforms related to affiliate marketing systems.<sup>12</sup> Supporting references from previous research and legal commentaries were also used to strengthen the analysis

### 3. Data Collection Techniques

Data collection techniques were conducted through document studies and literature reviews.<sup>13</sup> Relevant legal documents, regulations, books, journal articles, and fatwas were systematically identified, classified, and examined to obtain information related to contracts, transaction mechanisms, and legal responsibilities in affiliate marketing practices. The collected data were then recorded and organized

<sup>7</sup> Warsidi, Sami Ullah Khan, and Suhartono, "Implementasi Maqāshid Al-Syarī'ah dalam Pertimbangan Hakim pada Sengketa Ekonomi Syariah," *Maqasid: Jurnal Studi Hukum Islam*, Vol. 14, No. 3 (2025).

<sup>8</sup> Peter Mahmud Marzuki. (2019). *Penelitian Hukum*. Jakarta: Kencana, 35.

<sup>9</sup> Soerjono Soekanto, & Sri Mamudji. (2018). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers, 14.

<sup>10</sup> Johnny Ibrahim. (2017). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 46.

<sup>11</sup> Republik Indonesia. (2008). *Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*.

<sup>12</sup> DSN-MUI. (2017). *Fatwa DSN-MUI No. 114/DSN-MUI/IX/2017 tentang Akad Syirkah*. Jakarta: Majelis Ulama Indonesia.

<sup>13</sup> Lexy J. Moleong. (2021). *Metodologi Penelitian Kualitatif*. Bandung: PT Remaja Rosdakarya, 186.

according to the research focus to facilitate further analysis.

#### 4. Operational Definition

The operational definitions in this study include several important concepts. First, a contract is defined as a legal agreement between merchants and affiliates that creates rights and obligations in accordance with sharia principles and applicable law.<sup>14</sup> Second, legal responsibility refers to the legal and sharia obligations borne by each party in carrying out, supervising, and accounting for affiliate marketing activities and their consequences.<sup>15</sup> Third, the digital affiliate marketing system is defined as a commission-based marketing mechanism conducted through digital platforms using online media for promotional and transactional activities.<sup>16</sup>

#### 5. Data Analysis Method

The data analysis method in this study uses qualitative normative analysis.<sup>17</sup> This research does not employ quantitative data because the focus lies on legal concepts and contractual relationships within affiliate marketing practices. The analysis was carried out using a descriptive-analytical method by systematically describing legal phenomena and interpreting them based on Islamic law theory, Indonesian civil law, and sharia economic law principles.<sup>18</sup>

The analysis process was conducted in three stages. First, identifying and classifying legal documents and literature related to contracts and legal responsibilities in affiliate marketing systems. Second, conducting descriptive normative analysis to explain the

affiliate marketing mechanism, the form of contracts used, and the responsibilities of the parties involved. Third, applying comparative and interpretative analysis by comparing digital affiliate marketing practices with classical contracts in fiqh muamalah, such as *ju'alah* and *wakalah bil ujah*, and evaluating their compatibility with sharia economic law principles and Indonesian positive law.<sup>19</sup> The results of the analysis are presented narratively and supported by legal references and scientific literature.

### C. RESULTS AND DISCUSSION

#### 4.1 Results

This study shows that the digital affiliate marketing system in Indonesia involves three main parties: merchants, affiliates, and digital platforms. Merchants act as product or service providers, providing product information, determining prices, and setting commission mechanisms. Affiliates act as third parties who promote products through digital media, such as social media, blogs, or personal websites, with the aim of generating transactions recorded through affiliate links. Digital platforms serve as system administrators that detect transactions, validate sales, and distribute commissions in accordance with applicable regulations<sup>20</sup>. This mechanism is performance-based, meaning that affiliates only earn commissions if transactions actually occur and are verified by the platform system<sup>21</sup>.

Analysis of legal documents, academic literature, and digital platform guidelines

<sup>14</sup> Abdul Rahman Ghazaly. (2018). *Fiqh Muamalah*. Jakarta: Prenadamedia Group, 51.

<sup>15</sup> Ridwan Khairandy. (2019). *Hukum Kontrak Indonesia dalam Perspektif Perbandingan*. Yogyakarta: FH UII Press, 112.

<sup>16</sup> Philip Kotler, & Kevin Lane Keller. (2016). *Marketing Management* (15th ed.). Harlow: Pearson Education, 642.

<sup>17</sup> Sugiyono. (2020). *Metode Penelitian Kualitatif*. Bandung: Alfabeta, 9.

<sup>18</sup> Munir Fuady. (2018). *Metode Riset Hukum: Pendekatan Teori dan Konsep*. Depok: Rajagrafindo Persada, 73.

<sup>19</sup> Wahbah Az-Zuhaili. (2002). *Al-Fiqh Al-Islami wa Adillatuhu* (Vol. 5). Damascus: Dar al-Fikr, 3689.

<sup>20</sup> Kementerian Perdagangan Republik Indonesia. (2023). *Peta Jalan Ekonomi Digital Indonesia*.

<sup>21</sup> Ainun Najib. (2024). "A Sharia Perspective on E-Commerce Affiliate Marketing in Indonesia." *Prophetic Law Review*, 6(1).

found that affiliate marketing practices can be categorized into two types of contracts that are relevant to Islamic economic law. First, the *ju'alah* contract, which is a contract for the provision of compensation for certain agreed-upon results<sup>22</sup>. Rewards are only given when the work or target is achieved, such as product sales or click conversions. In digital practice, the *ju'alah* contract is reflected in the results-based commission provisions set out in the terms and conditions of digital platforms, including payment procedures, calculated transaction duration, and affiliate claim rights.

Second, *wakalah bil ujah* contract, which is the delegation of authority to perform certain work in exchange for service fees<sup>23</sup>. Affiliates act as representatives of merchants to promote products, with limited authority in accordance with the merchant's instructions. This agreement emphasizes the aspect of trust, as affiliates are responsible for conveying information accurately, without misleading consumers, and in accordance with promotional ethics. The role of *wakalah bil ujah* is important to ensure a clear division of legal responsibility between merchants and affiliates, especially in the event of disputes or consumer losses.

In addition, the study found a number of legal issues arising in affiliate marketing practices. First, the commission calculation mechanism is often subject to unilateral algorithm changes by digital platforms, creating uncertainty for affiliates<sup>24</sup>. Second, excessive promotion or claims that are not based on facts can harm consumers and potentially lead to legal disputes. Third, digital platforms sometimes do not provide

clear complaint or dispute resolution mechanisms, making it difficult to resolve conflicts between merchants, affiliates, and consumers<sup>25</sup>.

The results of the study also show differences in legal understanding and practice among actors. Large merchants tend to comply with regulations and set clear terms and conditions, while individual affiliates often ignore their limits of authority, thereby creating legal risks. More professional digital platforms provide transparent systems for recording transactions and commissions, but there are still platforms that rely on manual tracking, which is less accurate. This shows a discrepancy between the theory of contracts and practice in the field, creating legal risks from both positive law and Sharia law perspectives<sup>26</sup>.

## 4.2 Discussion

### a. Analysis of Contracts in Digital Affiliate Marketing

Normatively, affiliate marketing practices can be analyzed using the *ju'alah* and *wakalah bil ujah* contracts. The *ju'alah* contract is valid as long as the object of the work, the mechanism for achieving results, and the rewards are clearly explained and do not contain excessive elements of *gharar*<sup>27</sup>. In digital practice, unclear transaction tracking algorithms, unilateral commission cancellations, or late payments can cause *gharar*, thereby potentially undermining the validity of the contract. Merchants and digital platforms need to ensure transparency and clarity in commission mechanisms to

<sup>22</sup> Silviana Rohimah, & Nurul Huda. (2025). "Analisis Implementasi Akad *Ju'alah* dalam Program Afiliasi Digital." *Al-Kharaj*.

<sup>23</sup> Wahbah al-Zuhayli. (2010). *Al-Fiqh al-Islāmī wa Adillatuh* (Juz 5). Damaskus: Dar al-Fikr.

<sup>24</sup> Nur Kholisah, & Isnaeni. (2025). "Affiliate Business in the Digital Era." *Urwatul Wutsqo*, 14(3).

<sup>25</sup> Ahmad Mahfud. (2019). *Metodologi Penelitian Hukum: Pendekatan Yuridis Normatif*. Surabaya: LaksBang Press.

<sup>26</sup> Ika Nurfitriani, & Khairan. (2025). "Etika Bisnis Islam pada Affiliate Marketing." *Realita*.

<sup>27</sup> Wahbah al-Zuhayli. (2010). *Al-Fiqh al-Islāmī wa Adillatuh* (Juz 5). Damaskus: Dar al-Fikr.

maintain their validity from a Sharia perspective<sup>28</sup>.

The wakālah bil ujah agreement emphasizes the affiliate's responsibility as the merchant's representative in promoting products. Affiliates are not only responsible for the results, but must also convey

information correctly and in accordance with the merchant's instructions<sup>29</sup>. In practice, if an affiliate spreads false or misleading information to consumers, they are legally responsible under Sharia and positive law, so wakālah bil ujah emphasizes the principles of trust and integrity.

Aspect	Ju'alah	Wakālah bil Ujah
Definition	Compensation based on achieved results	Delegation of authority with compensation
Role of Affiliate	Performer of work	Representative of merchant
Basis of Payment	Sales or transaction results	Promotional services
Main Principle	Clarity and absence of <i>gharar</i>	Trustworthiness and honesty
Main Risk	Unclear commissions	Misleading promotions

Table 4.1 Comparison of Ju'alah and Wakālah bil Ujah

#### b. Merchant's Legal Responsibility

Merchants are responsible for the accuracy of product information, the quality of goods or services, and the halal status of products being marketed<sup>30</sup>. Under Indonesian positive law, merchants can be held liable for consumer losses, even if the promotion was carried out by an affiliate as a third party<sup>31</sup>. The principles of Islamic economic law emphasize that merchants must ensure that the systems used for marketing do not encourage fraudulent practices or manipulation of information<sup>32</sup>. This includes the obligation to ensure accurate product descriptions, maintain product quality, and make commission payments on time.

Under Indonesian positive law, merchants can be held liable for consumer losses, even if the promotion is carried out by

an affiliate as a third party. This is based on the principle that merchants remain the owners of the products and the primary service providers, so any claims or promises related to their products are their responsibility. For example, if an affiliate disseminates misleading information about a product and consumers suffer losses, consumers can sue the merchant under the Consumer Protection Law and the Electronic Information and Transaction Law.

The principles of Islamic economic law emphasize that merchants must ensure that the systems used for marketing do not encourage fraudulent practices, information manipulation, or excessive promotion. Merchants have a responsibility to design transparent affiliate marketing mechanisms, including clearly defining commission terms and conditions, ensuring that transaction

<sup>28</sup> Ahmad Mahfud. (2019). *Metodologi Penelitian Hukum: Pendekatan Yuridis Normatif*. Surabaya: LaksBang Press.

<sup>29</sup> Ainun Najib. (2024). "A Sharia Perspective on E-Commerce Affiliate Marketing." *Prophetic Law Review*.

<sup>30</sup> Republik Indonesia. (1999). *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*.

<sup>31</sup> Republik Indonesia. (2008). *Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*.

<sup>32</sup> Ibn Mājah. (n.d.). *Sunan Ibn Mājah*, Hadis No. 2340.

tracking algorithms work correctly, and providing complaint and dispute resolution channels for affiliates and consumers.

In digital practice, merchants must also pay attention to product halalness and other sharia aspects, such as ensuring that the products sold are free from haram or riba elements, and do not cause harm to consumers. This is particularly relevant for merchants targeting Muslim consumers in Indonesia, where sharia awareness is increasingly high. Failure to comply with this principle not only affects business reputation, but can also result in moral and legal sanctions from a sharia perspective.

Additionally, merchants are responsible for paying commissions to affiliates on time. Delays or reductions in commissions without clear reasons can lead to legal disputes and violate the principle of akad ju'alah in Sharia economic law, where compensation must be given as agreed upon after the work or target is achieved. Merchants must provide a transparent payment audit or confirmation mechanism so that affiliates can verify the amount of commission earned, thereby maintaining a fair and trustworthy business relationship.

Furthermore, the merchant's legal responsibility also includes monitoring the content published by affiliates. Merchants must establish clear promotional guidelines, prohibit the dissemination of misleading claims, and educate affiliates about the limits of promotional authority. Thus, merchants act not only as product providers but also as managers of a digital marketing ecosystem that minimizes legal and ethical risks.

Overall, the legal responsibilities of merchants in the digital affiliate marketing system are multidimensional, covering

technical, legal, ethical, and sharia aspects. Merchants must ensure product quality, factual promotions, transparent commission payment systems, and available complaint mechanisms. With this approach, digital affiliate marketing practices can be carried out professionally, reducing the potential for disputes, and aligning with the principles of Sharia economic law and Indonesian positive law.

### c. Affiliate Legal Responsibility

Affiliates are responsible for the promotional content presented to the public. Misleading or exaggerated promotions fall under the category of *tadlīs* (deception), which is prohibited in Islamic law<sup>33</sup>. Legally, this action is categorized as unlawful if it causes harm to consumers. Affiliates need to understand promotional ethics, limits of authority, and sharia principles so that their activities are lawful and do not cause legal disputes. Violations of promotional ethics are often found in individual or micro affiliations, especially those that lack understanding of regulations and sharia principles.

### d. Legal Responsibility of Digital Platforms

Digital platforms play a strategic role in ensuring system transparency, providing reporting and complaint mechanisms, and managing commission distribution. Platform negligence can cause losses for merchants, affiliates, or consumers. From a sharia economic law perspective, digital platforms can be categorized as *dāmin bi sabab*, or responsible for the cause, if system negligence causes losses to other parties<sup>34</sup>. Therefore, digital platforms must design systems that are fair, transparent, and provide clear dispute resolution procedures.

<sup>33</sup> Ika Nurfitriani & Khairan, "Etika Bisnis Islam pada Affiliate Marketing," *Realita*, 2025.

<sup>34</sup> Al-Syātibī, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, Dar Ibn 'Affan

Party	Main Responsibility	Potential Risk
Merchant	Product quality and commission payment	Consumer lawsuits
Affiliate	Accurate promotion of products	Misleading advertisements
Digital Platform	Transaction tracking and commission distribution	System errors and disputes
Consumer	Conducting transactions in good faith	Financial losses

*Table 4.2 Legal Responsibilities of Parties*

#### e. Compliance with Maqāṣid al-Sharī'ah

A digital affiliate marketing system that is run transparently and ethically supports the objectives of maqāṣid al-sharī'ah, especially *hifz al-māl* (protection of property) and *hifz al-nafs* (protection of individual rights). Practices involving manipulation, fraud, or misleading claims are contrary to maqāṣid al-sharī'ah, as they cause injustice and harm.

Practices involving manipulation, fraud, or misleading claims are clearly contrary to maqāṣid al-sharī'ah, as they cause injustice and harm to consumers and affiliates alike. For example, if an affiliate spreads false information about halal products or fake discounts to attract buyers, this violates the principles of *hifz al-māl* and *hifz al-nafs*, as it results in financial losses and violations of consumer rights. Furthermore, if merchants or digital platforms do not provide clear complaint mechanisms or dispute resolution procedures, this has the potential to cause additional injustice and undermine the principle of *amanah*, which is the foundation of Sharia economic law.

The suitability of practices with maqāṣid al-sharī'ah can also be analyzed through the principles of justice ('adl) and transparency (*al-ṣidq wal-amānah*). Merchants must organize their affiliate systems in such a way that no party is harmed by unclear commission rules, unilateral algorithm changes, or the dissemination of misleading information by affiliates. Affiliates, as representatives of merchants, have an

obligation to convey accurate and non-deceptive promotions, so that all digital transactions are fair and trustworthy.

Regulation and supervision of digital affiliate marketing practices are crucial to ensure compliance with Sharia law and positive law principles. The government, regulators, and digital platforms have a role in enforcing rules that protect consumers, maintain fairness in commission distribution, and ensure that marketing practices do not contain elements of *gharar* (uncertainty), *riba*, or *tadlīs* (deception). This oversight can take the form of operational guidelines, digital system audits, or Sharia certification for platforms and merchants, so that all parties understand the legal and ethical responsibilities that must be fulfilled.

Furthermore, the implementation of maqāṣid al-sharī'ah in digital affiliate marketing also supports sustainable economic growth. Ethical and fair business practices increase consumer trust, strengthen the reputation of merchants and platforms, and motivate affiliates to work professionally. In other words, compliance with sharia principles not only protects rights and property, but also creates a healthy, transparent, and productive digital economic ecosystem.

Therefore, every operational mechanism of affiliate marketing, from affiliate registration, promotion campaign management, transaction recording, to commission payments, must be evaluated

based on the principles of *maqāṣid al-sharī‘ah*. Merchants, affiliates, and digital platforms must work together to uphold justice, trustworthiness, and honesty in digital business practices. In this way, digital affiliate marketing can become a marketing tool that is not only economically efficient but also ethical and in line with the principles of Islamic law.

#### **f. Challenges and Risks of Affiliate Marketing Practices**

Some of the main challenges encountered include uncertainty in commission calculations due to changes in platform algorithms, lack of transparency in transaction tracking, and the risk of false information being spread by affiliates<sup>35</sup>. This risk can trigger disputes between merchants, affiliates, and consumers. In addition, a lack of alignment between merchants and affiliates regarding the limits of authority and legal responsibility can lead to conflict. Digital platforms that do not provide clear complaint procedures also increase legal risk.

Another significant risk is a lack of alignment between merchants and affiliates regarding the limits of authority and legal responsibility. Merchants may assume that affiliates are only responsible for promoting products, while affiliates may interpret that they have the right to conduct extensive creative promotions, including the use of certain claims or unauthorized discounts. These differences in interpretation can lead to conflicts that have legal implications, both in the realm of positive law and Islamic economic law, because the principles of trust and justice are not fulfilled.

Digital platforms that do not provide clear complaint or dispute resolution procedures also increase legal risks. In such circumstances, when disputes arise, merchants or affiliates find it difficult to

formally assert their rights. In addition, consumers may also suffer losses if the products they receive do not match the description or claims, as there is no clear mechanism for compensation or redress. This creates injustice and contradicts the principles of *maqāṣid al-sharī‘ah*, particularly *hifz al-māl* and *hifz al-nafs*.

Another challenge arises from unethical or manipulative promotional practices, such as the use of false information, fictitious discount claims, or aggressive marketing techniques that mislead consumers. Such practices not only pose legal risks but also damage the reputation of merchants and digital platforms. From the perspective of Islamic economic law, these actions constitute *tadlīs* (fraud) and *gharar* (uncertainty), which clearly contradict the principles of trustworthiness, honesty, and justice.

In addition to technical and ethical factors, regulatory aspects also pose a significant challenge. Currently, regulations regarding digital affiliate marketing in Indonesia are still relatively general and do not specifically regulate the division of responsibilities, claim procedures, or the terms and conditions underlying the affiliate system. This causes legal uncertainty for all parties, especially merchants and affiliates, who must adjust their business practices to platform rules that sometimes change without consultation.

#### **g. Risk Mitigation Strategies and Recommendations**

To reduce legal risks, merchants, affiliates, and digital platforms need to implement mitigation strategies, including: drafting clear terms and conditions, providing transparent transaction tracking mechanisms, conducting legal education on Islamic economics for affiliates, and establishing

<sup>35</sup> Nur Kholisah, & Isnaeni. (2025). "Affiliate Business in the Digital Era." *Urwatul Wutsqo*.

structured dispute resolution procedures<sup>36</sup>. Government regulations and Sharia fatwas can also serve as guidelines in ensuring that digital affiliate practices are conducted in accordance with positive law and Sharia principles.

The drafting of clear terms and conditions must include provisions regarding the rights and obligations of all parties, commission calculation mechanisms, the limits of the affiliate's authority in promotion, and dispute resolution procedures. With rules agreed upon at the outset, the potential for disputes can be minimized<sup>37</sup>. A transparent transaction tracking mechanism is important so that each party can objectively verify transactions and commission payments, thereby reducing uncertainty and the risk of conflict<sup>38</sup>.

Legal education on Islamic economics for affiliates is also crucial. Affiliates must understand the principles of *gharar* (uncertainty), *tadlīs* (deception), and the obligation of trustworthiness when conducting promotions. Affiliates who understand Sharia principles will tend to convey product information accurately, avoid misleading claims, and comply with platform and merchant regulations. As a result, promotional practices become ethical, trustworthy, and compliant with Sharia law.

In addition, structured dispute resolution procedures, whether through digital platforms or third-party mediation, can ensure that any disputes between merchants, affiliates, and consumers are resolved fairly. These procedures must be clear, easily

accessible, and have specific time limits so that dispute resolution does not cause additional losses to either party<sup>39</sup>.

Government regulations and Sharia fatwas can also serve as guidelines in ensuring that digital affiliation practices are conducted in accordance with positive law and Sharia principles. For example, guidelines on consumer protection, electronic contract provisions, and Sharia certification of platforms can be used as references for assessing the compliance of digital business practices with positive law and *maqāsid al-sharī'ah*. This view is consistent with recent research on Sharia financing practice, which stresses that supervision, legal protection, and digitalized monitoring are needed to maintain transparency and Sharia compliance<sup>40</sup>.

Furthermore, risk mitigation strategies can be expanded through several additional steps:

1. Regular internal audits by merchants and digital platforms to ensure that tracking systems, commission payments, and operational procedures are running in accordance with regulations and agreed contracts<sup>41</sup>.
2. Sharia certification for platforms and merchants operating in the Muslim consumer segment, so that all parties understand the legal and ethical boundaries that must be met<sup>42</sup>.

<sup>36</sup> Silviana Rohimah, & Nurul Huda. (2025). "Analisis Implementasi Akad Ju'alah dalam Program Afiliasi Digital." *Al-Kharaj*.

<sup>37</sup> Ainun Najib. (2024). *A Sharia Perspective on E-Commerce Affiliate Marketing*.

<sup>38</sup> Nur Kholisah, & Isnaeni. (2025). *Affiliate Business in the Digital Era*.

<sup>39</sup> Ika Nurfitriani, & Khairan. (2025). *Etika Bisnis Islam pada Affiliate Marketing*.

<sup>40</sup> Mokhammad Efendi, Warsidi, and Isma Swadjaja, "Analisis Hukum Ekonomi Syariah terhadap

Pelaksanaan Pembiayaan tanpa Agunan pada Bank Syariah Indonesia (BSI) di Kabupaten Tuban," RIGGS: Journal of Artificial Intelligence and Digital Business, Vol. 4, No. 3 (2025), 8202-8210.

<sup>41</sup> Silviana Rohimah, & Nurul Huda. (2025). *Analisis Implementasi Akad Ju'alah dalam Program Afiliasi Digital*.

<sup>42</sup> Ainun Najib. (2024). *A Sharia Perspective on E-Commerce Affiliate Marketing*.

3. Provision of transparent documentation and reports for affiliates and consumers, so that all parties can verify transactions, promotional claims, and commission payments<sup>43</sup>.
4. Strengthening digital literacy for consumers to understand their rights, recognize misleading promotional practices, and utilize complaint mechanisms in the event of violations.

By implementing these risk mitigation strategies and recommendations, digital affiliate marketing practices can be carried out in a professional, ethical, and fair manner. This not only minimizes legal risks and disputes, but also strengthens consumer trust, enhances the reputation of merchants and platforms, and ensures compliance with positive law principles and *maqāṣid al-sharī'ah*.

#### D. CONCLUSION

Based on the analysis of digital affiliate marketing practices from the perspectives of Islamic economic law and Indonesian positive law, this study concludes that affiliate marketing has developed into an important component of the digital economy. However, its implementation requires legal certainty, transparency, and ethical responsibility from all parties involved in order to ensure compliance with Sharia principles and consumer protection standards.

##### Findings and Conclusions

1. The digital affiliate marketing system in Indonesia involves three main parties, namely merchants, affiliates, and digital platforms. Merchants provide products, affiliates promote products, and digital platforms record transactions and distribute commissions. This

system is performance-based, meaning that commissions are only granted after transactions are legally and transparently recorded.

2. The contracts used in digital affiliate marketing practices can be categorized into *ju'ālah* and *wakālah bil ujrah* contracts. *Ju'ālah* contracts are suitable for result-based transactions, while *wakālah bil ujrah* emphasizes the responsibility and trustworthiness of affiliates as representatives of merchants. Both contracts are valid under Sharia economic law as long as the transaction mechanisms are transparent and free from excessive *gharar*.
3. The legal responsibilities of the parties are clearly divided. Merchants are responsible for product quality and information accuracy, affiliates are responsible for ethical promotional content, and digital platforms are responsible for transparent systems and dispute resolution procedures. Negligence by one party may create losses and legal consequences under both Sharia and positive law.
4. Compliance with *maqāṣid al-syarī'ah* demonstrates that transparent and ethical affiliate marketing practices support the protection of property (*ḥifẓ al-māl*) and individual rights (*ḥifẓ al-nafs*). On the other hand, fraud, misleading claims, and information manipulation contradict the objectives of Sharia.
5. The main challenges in digital affiliate marketing include uncertainty in commission calculations due to platform algorithm changes, misleading

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<sup>43</sup> Nurul Huda, 2024

promotional practices, and limited complaint and dispute resolution mechanisms. Therefore, clearer legal regulations and Sharia guidelines are necessary.

### Research Limitations

This study has several limitations that should be acknowledged in order to provide a balanced understanding of the research scope and findings.

1. This study uses a normative legal approach based on literature studies and legal documents; therefore, empirical data from affiliates, merchants, and platform users remains limited.
2. This research mainly focuses on Islamic economic law and Indonesian positive law, so international comparisons are discussed only in a limited scope.
3. This study does not quantitatively analyze the effectiveness of affiliate marketing systems in terms of revenue generation or consumer satisfaction because the focus is on legal and normative analysis.

### Recommendations

Based on the findings and limitations of this study, several recommendations can be proposed for relevant stakeholders and future researchers.

1. Digital platforms should enhance tracking systems, transaction transparency, dispute resolution mechanisms, and Sharia business ethics education, while regulators and policymakers should establish more

specific legal and Sharia guidelines on digital affiliate marketing, particularly regarding commission transparency, consumer protection, and dispute resolution, ensuring that operational standards and procedures are consistently evaluated based on maqāsid-oriented principles and harmonized with national legal certainty.<sup>44</sup>

2. Regulators and policymakers should establish more specific legal and Sharia guidelines on digital affiliate marketing, particularly regarding commission transparency, consumer protection, and dispute resolution, while harmonizing Sharia principles with national legal certainty.
3. Merchants should establish transparent affiliate agreements, provide accurate product information, and implement clear commission and complaint procedures based on Sharia principles.
4. Affiliates should understand promotional ethics, avoid misleading claims, and maintain honesty and accountability in digital marketing practices.
5. Future researchers are encouraged to conduct empirical and quantitative studies to evaluate the effectiveness of affiliate marketing systems and analyze consumer perceptions regarding legal and ethical risks in digital promotional activities.

<sup>44</sup> Warsidi, Abdurrahman Raden Aji Haqqi, and Isma Swadjaja, "Implementation of Sharia System in

Sharia-Certified Hospitals," *Jurnal Ilmiah Ekonomi Islam*, Vol. 10, No. 3 (2024), 2828-2833.

## REFERENCES

- [1] Abdul Rahman Ghazaly, 2018, *Fiqh Muamalah*, Prenadamedia Group, Jakarta.
- [2] Ahmad Mahfud, 2019, *Metodologi Penelitian Hukum: Pendekatan Yuridis Normatif* (Legal Research Methodology: A Normative Juridical Approach), LaksBang Press, Surabaya.
- [3] Ainun Najib, 2024, "A Sharia Perspective on E-Commerce Affiliate Marketing in Indonesia," *Prophetic Law Review*, Vol. 6, No. 1.
- [4] Al-Syātibī, n.d., *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, Dar Ibn 'Affan
- [5] DSN-MUI, 2017, *Fatwa DSN-MUI No. 114/DSN-MUI/IX/2017 tentang Akad Syirkah* (DSN-MUI Fatwa No. 114 concerning Syirkah Contract), Majelis Ulama Indonesia, Jakarta
- [6] Fuady, M., 2018, *Metode Riset Hukum: Pendekatan Teori dan Konsep* (Legal Research Methods: Theory and Conceptual Approaches), Rajagrafindo Persada, Depok.
- [7] Ibrahim, J., 2017, *Teori dan Metodologi Penelitian Hukum Normatif* (Theory and Methodology of Normative Legal Research), Bayumedia Publishing, Malang.
- [8] Ibn Mājah, n.d., *Sunan Ibn Mājah*, Hadith No. 2340
- [9] Kholisah, N., and Isnaeni, 2025, "Affiliate Business in the Digital Era," *Urwatul Wutsqo*, Vol. 14, No. 3.
- [10] Kotler, P., and Keller, K. L., 2016, *Marketing Management*, 15th Edition, Pearson Education, Harlow.
- [11] Lexy J. Moleong, 2021, *Metodologi Penelitian Kualitatif* (Qualitative Research Methodology), PT Remaja Rosdakarya, Bandung.
- [12] Marzuki, P. M., 2019, *Penelitian Hukum* (Legal Research), Kencana, Jakarta
- [13] Ministry of Trade of the Republic of Indonesia, 2023, *Peta Jalan Ekonomi Digital Indonesia* (Indonesian Digital Economy Roadmap).
- [14] Nurfitriani, I., and Khairan, 2025, "Etika Bisnis Islam pada Affiliate Marketing" (Islamic Business Ethics in Affiliate Marketing), *Realita*.
- [15] Republic of Indonesia, 1999, *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen* (Law Number 8 of 1999 concerning Consumer Protection).
- [16] Republic of Indonesia, 2008, *Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik* (Law Number 11 of 2008 concerning Electronic Information and Transactions).
- [17] Ridwan Khairandy, 2019, *Hukum Kontrak Indonesia dalam Perspektif Perbandingan* (Indonesian Contract Law in a Comparative Perspective), FH UII Press, Yogyakarta.
- [18] Rohimah, S., and Huda, N., 2025, "Analisis Implementasi Akad Ju'alah dalam Program Afiliasi Digital" (Analysis of the Implementation of Ju'alah Contracts in Digital Affiliate Programs), *Al-Kharaj*.
- [19] Soekanto, S., and Mamudji, S., 2018, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Normative Legal Research: A Brief Overview), Rajawali Pers, Jakarta.
- [20] Sugiyono, 2020, *Metode Penelitian Kualitatif* (Qualitative Research Methods), Alfabeta, Bandung.
- [21] Wahbah al-Zuhayli, 2002, *Al-Fiqh al-Islāmī wa Adillatuhu*, Vol. 5, Dar al-Fikr, Damascus.
- [22] Wahbah al-Zuhayli, 2010, *Al-Fiqh al-Islāmī wa Adillatuh*, Vol. 5, Dar al-Fikr, Damascus
- [23] Efendi, M., Warsidi, W., and Swadjaja, I., 2025, Analisis Hukum Ekonomi Syariah terhadap Pelaksanaan Pembiayaan tanpa Agunan pada Bank Syariah Indonesia (BSI) di Kabupaten Tuban, *RIGGS: Journal of Artificial Intelligence and Digital Business*, Vol. 4, No. 3, 8202-8210
- [24] Warsidi, W., Khan, S. U., and Suhartono, 2025, Implementasi Maqāṣid Al-Syarī'ah dalam Pertimbangan Hakim pada Sengketa Ekonomi Syariah, *Maqasid: Jurnal Studi Hukum Islam*, Vol. 14, No. 3.