



## Commission Deductions from Online Food Delivery Sales for MSMEs from the Perspective of Positive Law and Islamic Law

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### ABSTRACT

Indonesia leads the top rank in Southeast Asia in relation to Gross Merchandise Value (GMV) for online food delivery (OFD) services, recording a GMV of US\$ 4.6 billion in 2023. Online food delivery platforms like GoFood, GrabFood, and ShopeeFood have become integral to the lifestyle in major cities, including Malang. These platforms offer consumers convenience when ordering food from various restaurants. However, they also impose commission cuts on every sales transaction to OFD partners, which are often seen as burdensome. This study aims to analyze sales commission cuts on OFD platforms from the perspective of Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods and the Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract. The method used is empirical juridical with a qualitative approach. The research findings indicate: 1. There needs to be more satisfaction among business operators or OFD partners in Lowokwaru, Malang, regarding the increase in commission cuts. The commission cut mechanisms on the GoFood platform are 20% + Rp. 1,000 per sale, GrabFood is 30% per sale, and ShopeeFood is 25% per sale. 2. According to Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods, as long as the commission cuts by the three platforms (GoFood, GrabFood, and ShopeeFood) do not exceed 40%, such commission cuts are allowed. Whereas under Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract, commission cuts are permissible provided they meet certain established conditions. Yet, the third condition regarding ujarah has to be fully executed because neither party has agreed on commission increases.

### ABSTRAK

Indonesia memimpin peringkat teratas di Asia Tenggara dalam hal nilai penjualan bruto atau Gross Merchandise Value (GMV) layanan pesan antar makanan (OFD) dengan mencatatkan GMV sebesar US\$ 4,6 miliar pada tahun 2023. Layanan pesan antar makanan online (OFD) seperti GoFood, GrabFood, dan ShopeeFood telah menjadi bagian penting dari gaya hidup di kota-kota besar, termasuk Malang. Platform tersebut menawarkan kemudahan bagi konsumen untuk memesan makanan dari berbagai restoran. Namun, platform ini juga membebankan potongan komisi dari setiap transaksi penjualan kepada para mitra OFD yang sering kali dianggap memberatkan. Penelitian ini bertujuan untuk menganalisis pemotongan komisi penjualan pada platform OFD dari perspektif Permendag Nomor 70 Tahun 2019 tentang Distribusi Barang Secara Langsung dan Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 tentang Akad Wakalah Bi Al-Ujrah. Metode yang digunakan adalah yuridis empiris dengan pendekatan kualitatif. Hasil penelitian ini menunjukkan: 1. Adanya ketidakpuasan di kalangan pelaku usaha atau mitra OFD di Lowokwaru, kota Malang terkait kenaikan potongan komisi. Adapun mekanisme pemotongan komisi pada platform Online Food Delivery GoFood: 20% + Rp. 1.000 dari setiap penjualan, GrabFood: 30% dari setiap penjualan, dan ShoopeeFood: 25% dari setiap penjualan. 2. Dalam Permendag Nomor 70 Tahun 2019 tentang Distribusi Barang Secara Langsung, selama ketiga platform

(GoFood, GrabFood, dan ShopeeFood) memberlakukan potongan komisi tidak lebih dari 40%, maka pemberlakuan potongan komisi tersebut diperbolehkan. Sedangkan dalam Fatwa DSN-MUI NO: 113/DSN-MUI/IX/2017 tentang Akad Wakalah Bi Al Ujah, membolehkan adanya pemotongan komisi dengan syarat harus memenuhi beberapa ketentuan yang telah ditetapkan, namun ketentuan ketiga tentang ujah belum sepenuhnya terlaksana, karena belum ada kesepakatan mengenai peningkatan komisi dari kedua pihak.



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## INTRODUCTION

The advancement of the digital era in information and communication technology, particularly the internet, has significantly impacted various aspects of human life today. One specific aspect that has been particularly affected is the business world (Febrina, et al., 2020) The culinary sector has also been influenced by technological advancements, especially with the emergence of Online Food Delivery (OFD) services (Shinta, et al., 2023). Online food delivery services act as a bridge connecting customers with culinary businesses or restaurants through online platforms. Through these online platforms, customers can view lists of nearby restaurants, place orders, and make payments via digital applications or Cash on Delivery (COD) methods. Online food delivery services can be considered a digital marketing strategy used by micro, small, and medium enterprises (MSMEs) in the culinary sector (Kamaludin, 2023). Indonesia ranks at the top in Southeast Asia in terms of Gross Merchandise Value (GMV) of online food delivery services based on data from Momentum Works published in 2023. Indonesia recorded a GMV of US\$ 4.6 billion throughout 2023. Below are six countries in the Southeast Asia region that have GMV values based on Momentum Work data (Cindy, 2024).

**Table 1.** Largest GMV Values in Six Southeast Asian Countries

Country	GMV Value (US\$ Billion)
Indonesia	4,6
Thailand	3,7
Singapura	2,5
Filiphina	2,5
Malaysia	2,4
Vietnam	1,4

From Table 1, it can be observed that Indonesia dominates, but other countries also exhibit significant potential in the online food delivery (OFD) service. According to Momentum Works, GrabFood in Indonesia emerged as the largest OFD service provider in 2023 with a market share of 50%. Meanwhile, GoFood holds a substantial market share of 38%, and ShopeeFood accounts for 5% of the market. Indonesia has various OFD services through platforms such as GoFood, GrabFood, and ShopeeFood. These platforms have rapidly developed in Indonesia and have become popular trends among the public. GoFood is a feature of the Gojek app, GrabFood is part of the Grab app, while ShopeeFood is a feature provided by the Shopee e-commerce platform. All these applications are dedicated to food delivery services, enabling consumers to order food using their gadgets through these platforms (Fajriyah, et al., 2022).

The three platforms, GoFood, GrabFood, and ShopeeFood, impose sales commissions on business partners who have joined their platforms. Sales commission refers to a percentage of the sales revenue that Micro, Small, and Medium Enterprises (MSMEs) must share with the platform as compensation for using the infrastructure, technology, service provision, and usage of services provided by online platforms like GoFood,

GrabFood, and ShopeeFood. However, despite these commission deductions, partners in the online food delivery sector often object to the increasing commissions. Additionally, there are several challenges faced in the online food delivery industry. One of them is intense competition among these platforms. In efforts to attract more customers, these platforms often offer discounts, promotions, or loyalty programs. This can lead to a decrease in profit margins for Micro, Small, and Medium Enterprises (MSMEs).

Sales commission deduction in the context of online food delivery refers to the practice where food delivery platforms or apps take a portion of the food seller's revenue or profit as compensation for using their platform. When customers place orders through the platform, the food seller receives payment from the customer, but a portion of that amount is deducted by the platform as a commission. Sales commission is the compensation given by a company to direct sellers for their efforts in selling goods or services. This sales commission is typically used by platforms as a source of revenue to run their operations, including application development and maintenance, customer support, marketing, and other infrastructure. The commission rates may vary between platforms (such as GoFood, GrabFood, ShopeeFood) and may also depend on the agreements made between the platform and the food seller. While sales commission deductions can be a source of revenue for platforms, they can also impact the profits and earnings of food sellers. Therefore, food sellers need to consider these commissions in their cost and profit calculations.

The implementation of significant sales commissions on online food platforms, reaching up to 20% per transaction of the selling price, has led to price increases by every merchant to maintain their profit margins after considering commissions and discounts. The impact of these price increases is evident in reduced purchasing power, particularly affecting Micro, Small, and Medium Enterprises (MSMEs). On March 5, 2021, GoFood announced a new commission scheme, increasing from 12% plus Rp. 5,000 to 20% plus Rp. 1,000 for each product sold. Meanwhile, GrabFood imposes even higher commissions, up to 30% excluding VAT. As for ShopeeFood, commissions were raised from 20% to 25% on August 1, 2023, aimed at enhancing business growth within ShopeeFood and adjusting the commission rate from the previous 20% to 25% on every food item sold.

With the increase in sales commission, Micro, Small, and Medium Enterprises (MSMEs) are dissatisfied with the current situation. This sentiment was expressed by one Micro, Small, and Medium Enterprises (MSMEs) named Egar, who served as an informant in the study. Egar owns "Martabak Sukarasa" in Malang and utilizes all three platforms. Researchers conducted an interview with Egar and learned that he strongly opposes the rise in sales commission. Furthermore, Micro, Small, and Medium Enterprises (MSMEs) feel disappointed due to the lack of prior notification regarding the increase in sales commission from the three OFD platforms. This issue represents a social problem highlighted in the research. The legal issue underlying the research is related to Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 concerning the Wakalah Bi Al-Ujrah Contract. One of the conditions stipulated in this fatwa is that *ujrah* (commission) must be agreed upon between Micro, Small, and Medium Enterprises (MSMEs) and platform providers. However, in reality, there is no such agreement between them as reported by the informants.

From the issues at hand, it is important to ensure that the commission rates charged to Micro, Small, and Medium Enterprises (MSMEs) by these three platforms remain reasonable and in accordance with established regulations. The concept of reasonable pricing in economic theory, as per Ibn Taimiyah, suggests that prices should be set at levels that are fair so that both parties, whether consumers or businesses, achieve satisfaction. In Islam, trade must be conducted correctly; profits should not be excessively large; unethical trade practices should not harm others; and justice and honesty should be applied across all economic activities. Therefore, Micro, Small, and Medium Enterprises (MSMEs) must clearly understand the commission rates set so that they can devise appropriate strategies to enhance their business profitability.

This research is conducted to complement previous studies on the impact of GoFood and GrabFood on increasing culinary sales and the determination of commission rates in consignment services according to Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 regarding Wakalah Bi Al-Ujrah Contract. The main focus of this study is that while the presence of GoFood and GrabFood has positively impacted MSMEs, it can also have negative effects due to increasingly higher commission cuts. In determining the *ujrah* (commission) for consignment services, it is crucial that the quantity and/or quality of *ujrah* are clearly specified, whether in nominal figures, specific percentages, or agreed-upon formulas known to all parties involved in the contract. In line with this, this research will discuss the magnitude of sales commissions in online food delivery to MSMEs from the perspective of Fatwa DSN MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract.

Previous studies should have addressed commission cuts in online food delivery sales on the three marketplaces (GoFood, GrabFood, and ShopeeFood). Therefore, this research will explore the commission

cuts, introducing novelty to the study. These commission cuts are viewed from two perspectives applicable in Indonesia: Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods and Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract.

The research questions for this study are: 1. How does the mechanism of sales commission cuts work in online food delivery (GoFood, GrabFood, ShopeeFood) for MSME actors in Lowokwaru, Malang City? 2. How do the sales commission cuts in online food delivery (GoFood, GrabFood, ShopeeFood) for MSME actors in Lowokwaru, Malang City, align with Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods and Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract?

The research objectives are 1. To understand the mechanism of sales commission cuts in online food delivery (GoFood, GrabFood, ShopeeFood) for MSME actors. 2. To understand the sales commission cuts in online food delivery (GoFood, GrabFood, ShopeeFood) for MSME actors from the perspective of Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods and Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract.

In this context, this research aims to provide beneficial contributions in the following aspects: 1. Through this research, the researcher hopes to contribute to the advancement of scientific knowledge and serve as a reference for future researchers, particularly those focusing on commission cuts in online food delivery sales for MSME actors. 2. This study is expected to provide a more comprehensive understanding of the financial impacts experienced by MSME actors due to the applied commission cut schemes. Moreover, it seeks to provide insights into the opportunities for enhanced profitability and the difficulties MSMEs encounter in adjusting to current commission frameworks. This will serve as a foundation for more effective strategic planning for business operators in managing their businesses amidst the evolving dynamics of the online food delivery ecosystem.

## RESEARCH METHOD

The research method employed is juridical-empirical research. This study focuses on empirical facts about human behavior, both through verbal interactions in interviews and actual behavior observed directly through observation. The approach used in this research is through qualitative descriptive methods. Qualitative research is a type of descriptive research that typically analyzes data before researchers begin or enter the field. Zainuddin Ali defines descriptive research as systematically, factually, and accurately describing or depicting the characteristics, nature, or specific factors of a population or particular area (Zainuddin, 2009). The aim of qualitative research is to discover knowledge that was previously unknown and not deeply understood (Albi & Johan, 2018).

The purposive sampling method is used to base the research sample (Sugiyono, 2016). In this study, the sample subjects were predetermined, focusing on Micro, Small, and Medium Enterprises (MSMEs) or partners of online food delivery services GoFood, GrabFood, and ShopeeFood located in the Lowokwaru District of Malang City. The types of data used include primary and secondary data. Secondary data utilized include the Trade Ministry Regulation Number 70 Year 2019 on Direct Distribution of Goods and the Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract. Additionally, legal materials providing additional explanations such as draft legislation, research findings, scientific journals, theses, dissertations, and other sources are also included.

## RESULT AND DISCUSSION

### THE PERSPECTIVES OF MSMEs IN LOWOKWARU DISTRICT, MALANG CITY, REGARDING THE INCREASE IN COMMISSION DEDUCTIONS ON GOFOOD, GRABFOOD, AND SHOPEEFOOD PLATFORMS

Online Food Delivery or online food ordering and delivery services connect consumers with culinary businesses through digital platforms, facilitating the food ordering process for consumers. These services leverage technology to transform the food industry by utilizing digital platforms and mobile applications (Handira, 2021). Online food delivery services such as GoFood, GrabFood, and ShopeeFood enable customers to easily order food from various restaurants or eateries using their smartphones. These services also impose commission fees on Micro, Small, and Medium Enterprises (MSMEs) who join as partners in the online food delivery platforms. However, despite these services contributing to the growth of culinary

businesses, the commission fees imposed on MSMEs have caused dissatisfaction among some Online Food Delivery partners in the Lowokwaru District of Malang City.

The differences of opinion among MSMEs partnered with GoFood, GrabFood, and ShopeeFood platforms in the Lowokwaru District of Malang City are notable. While a majority of Online Food Delivery (OFD) partners can still accept the partnership schemes and commission cuts, others feel burdened by the increase in commission fees, which they perceive as not commensurate with the benefits received. This dissatisfaction stems from a lack of prior notification regarding the commission fee hikes, which MSMEs consider crucial for the sustainability of their businesses. This situation has created a perception that the prices of MSMEs' food on online food delivery platforms are significantly higher than those at their physical locations. Consequently, some consumers prefer to purchase directly from local eateries. The high commission fees have a negative impact on MSMEs' earnings through online food delivery service applications, as the fees imposed are deemed excessive.

Several informants who are partners of Online Food Delivery (OFD) services in Lowokwaru District, Malang City, have expressed their views on the increase in commission fees on platforms such as GoFood, GrabFood, and ShopeeFood. The first informant is Mr. Egar, who operates the Micro, Small, and Medium Enterprises (MSMEs) "Martabak Sukarasa" in Malang City. He has partnerships with various online food delivery platforms including GoFood, GrabFood, and ShopeeFood. He is aware of the implementation of commission payment/deduction systems by these platforms. However, Mr. Egar has voiced his objections to the increase in sales commission fees, which he believes are still too high, especially because there was no prior notification of the commission increase. As a result, business owners like him have been forced to significantly raise the prices of their food products (Egar, interviewed in Malang on February 6, 2024).

Similarly, the interview conducted with Mr. Amarudin, the owner of the MSME "Nasi Goreng Az-Zahra," who is also engaged in the partnership of online food delivery services, revealed that in his business, he not only offers regular fried rice but also a variety of fried rice dishes, noodles, and mixed vegetables (capcay). This diverse menu has garnered much popularity for Nasi Goreng Az-Zahra. However, he also mentioned that he was unaware of the increase in sales commission rates from other online food delivery platforms; only ShopeeFood notified him of such an increase (Amirudin, interviewed in Malang on February 3, 2024). According to information provided by Lekha, the Customer Service representative from ShopeeFood, the commission rate for ShopeeFood merchants has recently been raised by 25%.

Based on the information gathered, it has been revealed that there is still dissatisfaction stemming from inadequate notification about the perceived high increase in commission rates, which is crucial for the sustainability of their businesses. Not all online food delivery partners have accepted the increased sales commission rates implemented by GoFood, GrabFood, and ShopeeFood. While the majority of MSME partners in Online Food Delivery (OFD) services have accepted the partnership schemes and commission cuts positively, some still feel dissatisfied because they believe the increases are not proportional to the benefits received.

## **THE MECHANISM OF SALES COMMISSION DEDUCTION FOR ONLINE FOOD DELIVERY SERVICES (GOFOOD, GRABFOOD, SHOPEEFOOD) FOR MSMEs**

In the current digital era, technological advancements have transformed how we conduct business, particularly in the food industry. Micro, small, and medium enterprises (MSMEs) now have new opportunities to expand their customer reach due to the emergence of online food delivery platforms like GoFood, GrabFood, and ShopeeFood. Many small businesses have joined these platforms as partners because of the convenience offered by online food delivery services. Consequently, they can capitalize on every business opportunity available to them (Suriyadi & Juliana, 2022). However, behind these vast opportunities lie challenges that MSMEs must confront. One of the primary challenges is devising business strategies to navigate the commission deduction systems implemented by these platforms.

Understanding the concept of digitalization and commission deduction mechanisms can pose challenges for many micro, small, and medium enterprises (MSMEs). It's not uncommon for them to get caught in confusion and make mistakes that result in financial losses. Having the right business strategy is crucial for MSMEs to survive and thrive in the current digital era. This strategy should be capable of addressing existing issues and leveraging opportunities on online food delivery platforms. Therefore, business owners must thoroughly understand how each online food delivery platform operates before becoming partners with GoFood, GrabFood, and ShopeeFood. This approach helps them avoid mistakes and confusion in the future. The mechanisms used by online food delivery platforms like GoFood, GrabFood, and

ShopeeFood are quite similar, with the primary difference lying in the percentage values of commissions imposed on businesses by each platform.

### 1) GoFood

The Gojek application offers various online services including GoFood, which facilitates food delivery through the internet. In addition to GoFood, Gojek provides a multitude of other applications such as Go-Ride, Go-Car, Go-Send, Go-Box, GO-Massage, Go-Clean, Go-Glam, GO-Tix, Go-Pay, and Go-Busway, most of which focus on electronic services. Among these, GoFood stands out as the most popular, offering online food delivery services with over 75,000 registered restaurants (Muhammad, 2022). GoFood has been operational since 2015 and continues to expand by adding more restaurants and eateries to their platform. It has become one of Indonesia's largest and most popular food delivery platforms. GoFood's service greatly simplifies the process for users to enjoy a variety of favorite dishes without physically visiting restaurants or eateries.

The commission fee structure on GoFood is 20% of the total sales per transaction, plus an additional Rp1,000 per transaction fee. However, the Rp1,000 service fee does not apply to orders picked up directly by customers from the restaurant. According to GoFood's rules and requirements, each order received by a partner is split in an 80:20 ratio, where 80% goes to the partner and the remaining 20% is retained by GoFood. For MSMEs, it's crucial to factor in these commission fees when setting their selling prices. The commission or platform fee for online food delivery services is compensation earned by Gojek for providing the marketplace platform and GoFood service (GOTO) to business partners (Knowledge, 2023). The calculation of commission deductions is based on each transaction recorded in Gojek's system (GOTO), multiplied by the net sales as recorded in Gojek's system (GOTO). In the example calculation of commission deduction provided:

1. If a customer orders food from "Martabak Sukarasa" amounting to Rp.100.000, a commission of 20% will be deducted.
2. Net sales:  $\text{Rp.100.000} - \text{Rp.20.000} = \text{Rp.80.000}$ .
3. GoFood commission:  $(20\% \times \text{Rp.80.000}) + \text{Rp.1.000} = \text{Rp.17.000}$ .
4. Net amount received by GoFood partner:  $\text{Rp.80.000} - \text{Rp.17.000} = \text{Rp.63.000}$ .

Alternatively, put simply:

1. The net amount or selling price of Martabak Sukarasa is Rp.20,000.
2. The commission rate on the GoFood platform, initially 12%, plus Rp.5.000 becomes  $20\% + \text{Rp.1.000} = (\text{Rp.20,000} \times 20\%) + \text{Rp.1.000}$  or  $\text{Rp.20.000} \times 20\% = \text{Rp.4.000} + \text{Rp.1.000} = \text{Rp.5.000}$ . Thus, the selling price for MSMEs is  $\text{Rp.20.000} + 5.000 = \text{Rp. 25.000}$ .

### 2) GrabFood

GrabFood is an online food delivery service provided by the Grab app, which collaborates with restaurants across various cities in Indonesia. A standout feature and the most popular service offered by Grab is GrabFood. GrabFood offers a diverse range of food options, including local dishes, international cuisine, fast food, and regional specialties. Through GrabFood, users can conveniently order food from various restaurants and eateries in their area online. GrabFood was first launched in 2016 and has expanded across several cities in Southeast Asia, continually adding more restaurants and food outlets to its platform. GrabFood provides users with a variety of choices and offers ease of enjoying their favorite foods. Essentially, this service functions similarly to a food delivery order service, especially beneficial for MSMEs with limited budgets to develop their own online food delivery systems. GrabFood serves as an alternative solution that helps MSMEs provide delivery services without having to invest in their own delivery fleet (Hayatul Hana, 2019).

According to its official website, Grab explains that the commission charged to GrabFood partners/businesses is 30% (excluding VAT), depending on the number of orders received. For example, if GrabFood partners receive a certain number of orders in a day, Grab will take 30% of the total order value. The commission deduction mechanism applied by the GrabFood online food delivery platform is similar to that of GoFood, with the main difference lying in the percentage split of the commission earnings. The calculation is as follows GrabFood operates on a 70:30 split, where 70% of the total order value is allocated to the GrabFood partner (restaurant or eatery). 30% of the total order value is retained by GrabFood. In the example calculation of commission deduction provided:

1. Net Sales: Selling price of food  $\times 30\%$ .
2. Example calculation:  $\text{Rp.15.000} \times 30\%$ .
3. Merchant's revenue:  $\text{Rp.15.000} - 30\% (\text{Rp.4.500}) = \text{Rp.10.500}$ .

4. The merchant receives Rp.10.500 from the sale of food worth Rp.15.000 after GrabFood's 30% commission deduction. Meanwhile, GrabFood earns Rp.4.500 from the commission of the food sale.
5. Or in simpler terms, daily order: Rp.100.000.
6. Profit-sharing for GrabFood:  $30\% \times \text{Rp.}100.000 = \text{Rp.}30.000$ .
7. Net amount received by GrabFood partner:  $\text{Rp.}100.000 - \text{Rp.}30.000 = \text{Rp.}70.000$ .

### 3) ShopeeFood

Shopee has been present in Indonesia since 2015. With the onset of the COVID-19 pandemic, ShopeeFood was introduced as a new feature on the Shopee platform and has since continued to evolve. ShopeeFood is an online food delivery service launched by Shopee in April 2020 (Fajriyah, et al., 2022). It operates similarly to other food delivery platforms in terms of capacity and function. In November 2020, ShopeeFood started to recruit its own driver partners, and by early 2021, it began its initial rollout in Jakarta, expanding further on May 3, 2021, to cover all regions (Adhita, 2022). The emergence of ShopeeFood in the food delivery business posed a threat to existing players like GrabFood and GoFood. Despite being relatively new, ShopeeFood quickly gained popularity among Indonesians. However, Gojek and Grab have anticipated this competition by launching new features such as "ready-to-cook meals" since last year.

It's known that the commission applied by ShopeeFood increased from 20% to 25%. This information was obtained by researchers from ShopeeFood's Customer Service representative Lekha through priority chat on the Shopee app itself. Currently, the merchant commission on ShopeeFood has increased by 25% from its previous rate of 20% (Lekha, Interviewed in Malang on February 4, 2024, regarding CS ShopeeFood). The commission calculation mechanism on ShopeeFood is similar to other food delivery platforms, with the main difference lying in the percentage split of earnings. ShopeeFood offers a split of 75:25, where 75% of the total order value goes to the ShopeeFood partner (restaurant or eatery). 25% of the total order value is retained by ShopeeFood.

Based on the procedures or commission deduction mechanisms applied by online food delivery platforms like GoFood, GrabFood, and ShopeeFood, it can be concluded that MSMEs or partners joining these platforms must thoroughly understand the workings and mechanisms of each platform before joining as partners. Thus, they can avoid mistakes and confusion in the future. ChatGPT There are several steps in determining the right price for each order on GoFood, GrabFood, and ShopeeFood for partners in online food delivery services: a. Understand the profit-sharing percentage applied by each online food delivery platform; b. Set the selling price after understanding and agreeing to the agreed-upon terms by both parties. This is to avoid mistakes and confusion in the future; c. Track each transaction to identify the profits and revenue earned from each transaction through these three online food delivery platforms (Business Insight, 2022). MSMEs can utilize online food delivery platforms as opportunities to expand their businesses and achieve success in the digital era through perseverance, proper strategies, and optimal use of technology.

### **COMMISSION DEDUCTION OF ONLINE FOOD DELIVERY SALES (GOFOOD, GRABFOOD, SHOPEEFOOD) FOR MSMEs IN LOWOKWARU DISTRICT, MALANG CITY FROM THE PERSPECTIVE OF POSITIVE LAW AND ISLAMIC LAW**

Reported by Kontan.co.id, regarding the increase in commissions on online food delivery platforms, the government is currently reviewing plans to regulate the rise in commissions for online food delivery platforms. Hermawati Setyorinny, General Chairperson of the Indonesian MSME Association, supports challenging the sales commission on online food delivery platforms that harm MSMEs. She believes that online food delivery marketplaces/platforms should be prudent in implementing commission limits. According to Ikhsan Ingratubun, Chairman of the Indonesian MSME Association (Akumindo), many MSME producers complain about the increase in commission fees from food and beverage delivery service platforms. This increase has led to higher prices for food and beverages sold by MSMEs, causing some consumers to prefer buying directly from local eateries or restaurants (Elsa Catriana, Erlangga Djumena, 2021). The rise in commission cuts has negatively impacted the income of MSME partners through online food delivery applications, as the commissions imposed are considered too high. Therefore, MSME business operators need to understand and be aware of the commission cuts or the implementation of the latest commission systems to determine if they are still reasonable and compliant with applicable regulations.

In accordance with Wahbah az-Zuhaili, "akad" refers to the binding or confirmation between several parties in a specific matter, which can be concrete or abstract, involving one or two parties (Wahbah Az-Zuhaili, 2011, Volume 4, P. 420). "Akad wakalah" is a contract where someone (muwakkil) grants authority to another person (wakil) to act on their behalf. "Bi al ujah" signifies with compensation or commission.

According to the Shafi'i scholars, "wakalah" is the expression or delegation of authority (al-muwakkil) to another person (al-wakil) to perform a task that can be substituted (an-niyabah) (Zhulis, 2022). Thus, "wakalah bi al-ujrah" denotes an agency agreement with a fee. In the context of online food delivery services (GoFood, GrabFood, ShopeeFood), the application or platform acts as an agent for the restaurant (the principal) to sell and deliver food to consumers, receiving a commission as remuneration for the service provided.

Typically, in online food delivery services, there are three main parties: the seller (restaurant), the buyer (consumer), and the platform providing the online food delivery service (GoFood, GrabFood, ShopeeFood), where the platform acts as an agent authorized by the seller to sell and deliver food to the buyer. In return, the platform receives a commission from the seller as the business entity utilizing its services. The commission in the "wakalah bi al-ujrah" agreement must have legal validity according to Sharia law. It requires a clear agreement between both parties regarding the commission or fee, including transparency, fairness, and mutual consent of all parties involved (Fatwa DSN-MUI No: 113/DSN-MUI/IX/2017 tentang Akad Wakalah Bi Al-Ujrah). The compensation (ujrah) paid by the seller to the platform is remuneration for the services rendered, aligning with the concept of "bi ujarah." The fairness (Al-'Adl) of the commission must be just and non-exploitative, meaning the amount of commission should be proportional to the service provided. Agreement and mutual consent are essential aspects where both the seller and the platform providing online food delivery services agree to the terms of the contract, including the agreed commission.

Positive Law refers to Minister of Trade Regulation No. 70 of 2019 regarding the Direct Distribution of Goods. This regulation outlines legal provisions and requirements governing the direct distribution of goods from manufacturers or importers to consumers, including supervision and compliance with specified limits on commissions and bonuses. Islamic Law refers to the Fatwa issued by the National Sharia Board of the Indonesian Ulema Council (DSN-MUI) No. 113/DSN-MUI/IX/2017 concerning Wakalah Bi Al-Ujrah Contract. This Fatwa addresses the concept of wakalah bi al-ujrah, which involves a contractual arrangement in Islamic finance and business dealings. In this arrangement, one party (the agent) acts on behalf of another (the principal) in exchange for a fee or commission.

Positive Law under Minister of Trade Regulation No. 70 of 2019 sets forth legal guidelines for the direct distribution of goods in Indonesia, including rules on commissions and bonuses. Islamic Law, as per the Fatwa No. 113/DSN-MUI/IX/2017, provides guidance on the Islamic principles and procedures regarding contracts of agency with fee (wakalah bi al-ujrah), which may inform Islamic financial practices related to distribution and commissions in accordance with Sharia principles. In Minister of Trade Regulation No. 70 of 2019 regarding Direct Distribution of Goods, procedures and mechanisms are established for the direct distribution of goods from manufacturers or importers to consumers, without intermediaries or distributors. This regulation covers requirements, permits, and supervision. The supervision, as stipulated in Article 25 of Chapter V on development and supervision, involves oversight conducted by the minister or designated parties responsible for monitoring, evaluating, and overseeing the direct distribution of goods, including online food delivery services.

The oversight of direct sales activities is governed by legislation regulating trade supervision activities. Development, as outlined in Article 27, is carried out through counseling, consultation, education, training, and evaluation, based on annual business activity reports submitted by companies and on-site verification results. The regulation also outlines procedures for implementing direct distribution of goods and discusses commissions and bonuses related to it.

According to Articles 16 and 17, "Companies provide commissions and/or bonuses to direct sellers as agreed." However, the amount given to direct sellers as stipulated in Article 16 must not exceed 40% (forty percent) of the company's total sales. This means the government has set a commission limit that applies to companies or online food delivery service platforms engaging with MSMEs. If these platforms exceed the maximum commission limit of 40% as established by the government, it clearly violates Articles 16 and 17 of Minister of Trade Regulation No. 70 of 2019 regarding Direct Distribution of Goods.

Article 30A of PERMENDAG No. 70 also states that commissions and/or bonuses may be obtained from membership fees. This implies that such commissions are provided by sellers or businesses to platforms. These commissions represent a form of partnership among member affiliates, where the value is agreed upon by both parties. It is noted that these platforms apply different percentage deductions as commissions to MSME partners who have joined their platforms. GoFood offers a commission of 20% + IDR 1,000, GrabFood offers 30%, and ShopeeFood offers 25% of each sale. Consequently, it can be concluded



that these platforms' commission rates are within the maximum limits since they do not exceed 40% (forty percent).

The contents of the Fatwa Dewan Syariah Nasional-MUI No. 113/DSN-MUI/IX/2017 on Wakalah Bi Al-Ujrah Contract contain various provisions covering important aspects such as general provisions, legal aspects, shighat (expression of intent), wakil (agent) and muwakkil (principal), object, ujarah (fee), as well as specific provisions related to relevant products. Ujarah in the Wakalah contract, as explained in the fatwa, includes four provisions that need to be observed in the practice of online food delivery services, specifically in the sixth provision related to ujarah:

**a. Ujarah may be in the form of money or goods that are permissible according to Shariah (mutaqawwam) and prevailing legal regulations.**

Akad wakalah bil ujarah is a contract between two parties where the muwakkil (business operator) grants authority to the wakil (online food delivery platform) to market the business's products online in exchange for a fee or commission. This fee is called ujarah, and in the wakalah contract, it must be in the form of goods or money. This is the first provision in the fatwa of DSN MUI issued on September 19, 2017. The ujarah given to the wakil (online food delivery platform) must have value. Goods used as ujarah must comply with Sharia principles, specifically the mutaqawwam principle, which requires that the goods or money used as commission are halal and lawful in Islam. Additionally, ujarah must comply with the laws and regulations applicable in the respective country. According to Indonesian law, specifically Permendag (Regulation of the Ministry of Trade) Number 70 of 2019 concerning Direct Distribution of Goods, Article 17 stipulates that the amount of commission and/or bonuses to direct sellers must align with the agreement made initially under Article 16, "The company provides commissions and/or bonuses to direct sellers as agreed upon" (Peraturan Menteri Perdagangan Nomor 70 Tahun 2019 Tentang Distribusi Barang Secara Langsung). Therefore, government-mandated commission cuts can only be imposed up to a maximum of 40% of the company's turnover, in accordance with the agreed-upon terms.

**b. The quantity and/or quality of ujarah must be clear, whether in the form of a nominal amount, a specific percentage, or a formula agreed upon and known by the parties involved in the contract.**

The second provision in the Fatwa DSN MUI No. 113/DSN-MUI/IX/2017 regarding Wakalah Bi Al-Ujrah Contract stipulates that the quantity or quality of money or goods as ujarah (remuneration) given by the business entity to the platform must be clearly defined at the outset of the agreement, whether in the form of a nominal amount, percentage, or agreed formula.

1. Nominal Amount

In some cases, commission fees may be set as a fixed nominal amount. For example, every transaction conducted through the platform incurs a flat fee of Rp.5.000. This means that irrespective of the total order value, the business entity will pay Rp.5.000.  $20\% + \text{Rp.1.000} = (\text{Rp.20.000} \times 20\%) + \text{Rp.1.000}$  atau  $\text{Rp.20.000} \times 20\% = \text{Rp.4.000} + \text{Rp.1.000} = \text{Rp.5.000}$  is the fee or commission that the platform charges for each received order. Example: Net sales: Rp.100.000 - Rp.20.000 = Rp.80.000. GoFood commission:  $(20\% \text{ of Rp.80.000}) + \text{Rp.1.000} = \text{Rp.17.000}$ . Net amount received by GoFood partner:  $\text{Rp.80.000} - \text{Rp.17.000} = \text{Rp.63.000}$ .

2. Certain Percentage

The compensation or commission should be clearly defined based on a percentage of the total order value, for example, with a ratio like 80:20 where 80% is allocated to the GoFood partner (the restaurant or seller), while the remaining 20% is retained by GoFood (the platform). This allocation ensures a fair distribution of earnings based on the transaction's total value. Example: If the total order value is Rp.100.000, then the commission deduction is  $20\% \times \text{Rp.100.000} = \text{Rp.20.000}$ . If the total order value is Rp.200.000, then the commission deduction is  $20\% \times \text{Rp.200.000} = \text{Rp.40.000}$ .

3. Agreed Formula

The commission deduction can indeed be determined by a more complex formula that incorporates various variables such as order value, delivery costs, and specific incentives. This approach allows for a more nuanced calculation tailored to the specific circumstances of each transaction or business arrangement. For example, the formula could be:  $\text{Commission} = (\text{Total Order Value} - \text{Delivery Cost}) \times \text{Commission Percentage}$  or  $20\% + \text{Rp.1.000} = (\text{Rp.20.000} \times 20\%) + \text{Rp.1.000}$  or  $\text{Rp.20.000} \times 20\% = \text{Rp.4.000} + \text{Rp.1.000} = \text{Rp.5.000}$ .

**c. The ujarah may be paid in cash, installments, or deferred according to Shariah principles, agreements, and/or applicable laws and regulations.**

Ujrah or commission must be given to the platform after performing the task, there should be no unilateral cancellation that disadvantages the other party. If this occurs, both parties must hold a consultation. However, if no agreement is reached, the matter will be settled through Sharia arbitration. Therefore, both parties must be responsible for the initial agreement that has been established. Commission or ujrah can be paid in various ways according to the initial agreement. In online food delivery services, commissions are usually deducted directly from the payments received by the restaurant. However, according to this fatwa, payments can also be made using the following methods: Payment Methods: Ujrah (remuneration) can be paid in various ways, according to the agreement between the parties:

1. Cash: Immediately after the service is provided. Installments: Paid periodically according to the agreement.
2. Deferred: Payment postponed until the agreed time.
3. Agreement and Regulations: These payment methods must comply with Sharia principles and applicable laws.

However, this third condition has not been fulfilled because there was no agreement on the increase in commission that occurred in 2022. The platform did not inform about the increase in commission, leading to miscommunication with UMKM, resulting in complaints of reduced income. Therefore, this third requirement does not meet the third ujrah provision.

**d. The agreed ujrah may be reviewed based on the benefits not yet received by the muwakkil, in accordance with the agreement.**

The agreed ujrah or commission can be reviewed if the benefits promised by the agent have not been fully received by the principal. This review agreement must be based on mutual consent between the parties involved, allowing flexibility to renegotiate the commission if there is a mismatch in benefits. Implementation in Online Food Delivery Services:

1. Clear and Transparent: Food delivery service platforms must ensure that all information regarding commissions or ujrah is clearly communicated to restaurants from the outset. This includes the form, amount, and method of commission payment.
2. Sharia Compliance and Legal Compliance: The commissions taken by platforms must adhere to Sharia principles and also comply with the applicable laws in Indonesia.
3. Payment Flexibility: Platforms and restaurants can agree on various payment methods that best suit their situation, whether it's cash, installment, or deferred payment.
4. Commission Review: If a restaurant feels that the service provided by the platform does not justify the commission charged, they can request a review based on mutual agreement (Fatwa DSN-MUI No: 113/DSN-MUI/IX/2017 tentang Akad Wakalah Bi Al-Ujrah).

The provisions regarding ujrah (remuneration) or commission in Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 provide clear and fair guidelines for the implementation of online food delivery services. Therefore, the application of commission cuts by food delivery service platforms such as GoFood, GrabFood, and ShopeeFood must comply with the provisions in Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017, which emphasize transparency, clear agreements, flexibility in payment, and review of ujrah. These are key to ensuring that these practices are in accordance with Sharia principles. However, in practice, the third provision in Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 regarding ujrah has not been fully implemented, as there is still no mutual agreement on commission increases between the two parties. As a result, the implementation of commission cuts in OFD sales, according to the fatwa, has not been fully met with the aim of maintaining fairness and ensuring that the commission paid aligns with the benefits received.

## CONCLUSION

The conclusion of this study is as follows: 1. MSMEs in the city of Malang are divided into two groups regarding the partnership scheme and commission cuts by Online Food Delivery (OFD): a. The first group still accepts the partnership scheme and commission cuts. b. The second group, as reported by informants, expresses dissatisfaction with the increase in commissions, which they feel are disproportionate to the benefits received. Some informants voiced concerns over what they perceive as excessively high commission cuts and insufficient prior notification of these increases. They argue that the communication regarding these increases could have been better and more manageable for business owners. 2. The commission-cutting mechanisms on each online food delivery platform, such as GoFood, GrabFood, and ShopeeFood, are fundamentally similar, differing only in the percentage values applied: a. GoFood: 20% + Rp. 1,000 per sale. b. GrabFood: 30% per sale. c. ShopeeFood: 25% per sale.

3. According to Minister of Trade Regulation No. 70 of 2019, there are provisions regarding the direct distribution of goods. The regulation stipulates that commission cuts are permissible but must not exceed 40% of the company's revenue. This is detailed in Article 16 of Minister of Trade Regulation No. 70 of 2019, which mandates companies to provide commissions or bonuses to direct sellers as agreed upon. Therefore, as long as GoFood, GrabFood, and ShopeeFood adhere to commission cuts that do not exceed 40%, such practices are permissible and reasonable. The Fatwa DSN-MUI No. 113/DSN-MUI/IX/2017 concerning Wakalah Bi Al-Ujrah Contract regulates representation contracts, including online food delivery platforms. Both regulations permit commission cuts under certain conditions: a. Money or goods used must comply with Sharia principles (*mutaqawwam*) and applicable regulations. b. The value of money, percentage, or formula must be clear, and both parties must be aware of it during the contract. c. Payments can be made in cash, installments, or deferred, but must comply with Sharia agreements and applicable regulations. d. Agreed *ujrah* (fee) can be reviewed if the benefits received by the *muwakkil* (delegator) are not in accordance and must be approved by both parties. In conclusion, this study finds that the increase in commissions by Online Food Delivery (OFD) has sparked pros and cons among UMKM business owners in Malang. There is a need for clarity and transparency regarding the commission-cutting schemes implemented by OFD, and it is crucial to reconsider the amount of these commissions to align with fair pricing standards that benefit all parties involved.

From the findings of the study, the researcher intends to provide recommendations that can be useful for various stakeholders, including business operators or Online Food Delivery (OFD) platforms, as well as for future researchers, including: 1. Conduct a review of the current commission cut schemes considering the sustainability of MSMEs. Enhance transparency and communication with MSME partners regarding commission-cut schemes. Provide education and training to MSME partners on effective business strategies within the online food delivery platform. 2. Conduct further research on the impact of increased Online Food Delivery (OFD) commissions on MSME income and profitability. Study alternative partnership models between OFD platforms and MSMEs that are fair and mutually beneficial. Analyze strategies for MSMEs to cope with commission increases and enhance their competitiveness in the digital era. Provide education and support to MSMEs regarding digital literacy and negotiation skills with OFD platforms. Conduct research with a more extensive and more diverse sample to obtain a more comprehensive understanding of the impact of commission increases on MSME actors. These recommendations aim to foster a more equitable and sustainable relationship between OFD platforms and MSMEs, as well as to guide future research efforts in addressing pertinent issues in the field.

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