



Potential Shariah Non-Compliance Practices in E-Bidding: Observation from E-Bidding Platforms in Malaysia

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ABSTRACT - E-bidding has gained popularity in the modern world due to the technology advancement. Despite its popularity, contracting parties are exposed to Shariah non-compliance practices, which may lead to financial losses and disputes. Islamic jurisprudence provides guidelines assisting bidders and auctioneers in avoiding these practices. This study examines e-bidding platforms in Malaysia and highlights potential Shariah non-compliance issues based on Islamic jurisprudence guidelines. This study employs a qualitative data analysis method. Data are collected from the e-bidding platforms and their published documents. The findings revealed several practices that might lead to Shariah non-compliance issues in e-bidding platforms, including unverified bidders, elements of uncertainty, *riba*, gambling, and unavailability of *khijar* (option). This study suggests several improvements to enhance procedures of e-bidding platforms to avoid financial losses and disputes among contracting parties in e-bidding. Hence, the improvement like verification of bidders, fulfilment of requirement for trading *ribawi* item, avoidance of element of uncertainty and gambling activities, and offering *khijar* to successful bidder are suggested.

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INTRODUCTION

The online auction has evolved as one of the main alternative consumer channels (Pinker et al., 2010; Pinker et al., 2003). Among the advantages of an online auction are that it enables the daily sales of goods to geographically dispersed foreign customers, offers new possibilities to reach larger groups of new and younger customers, and gives customers additional time to decide (Tolstoy et al., 2020). The global online auction market is predicted to grow by 7.2 per cent between 2018 and 2022 (Technavio, 2018).

Despite the abovementioned advantages, the online auction is exposed to numerous potential problematic practices that might disregard the rights of contracting parties. They include fraud and scam (Jenamani et al., 2007; The Star, 2016), shill bidding (Roth & Ockenfels, 2002), the inability of a customer to scrutinise the object via the web, trust and etiquette issues, such as the winning joy (Cox et al., 1992), and problem-related to supply chain in ensuring objects bought can reach the customer in a timely and safe manner (Tolstoy et al., 2020).

This study aims to answer the following research questions. Firstly, what are the potential Shariah non-compliance issues in e-bidding? Secondly, what are the possible ways to avoid potential Shariah non-compliance issues in e-bidding?

This study employs a qualitative data analysis method. Data are collected from the e-bidding platforms and their published documents. The findings revealed several practices that might lead to potential Shariah non-compliance issues in e-bidding. Among others are unverified bidders, elements of uncertainty, *riba*, gambling, and unavailability of *kehiyar* (option). This paper contributes to a literature review on e-bidding from the Shariah perspective. In addition, it serves as guidance to e-bidding platforms to enhance their procedures to comply with the Shariah requirements and avoid any dispute between contracting parties.

This paper consists of five (5) sections; the first is the introduction, followed by a literature review in the second section. This paper explains the research methodology and results in the third and fourth sections. Lastly, section five concludes the paper.

LITERATURE REVIEW

Bidding and e-bidding

Bidding refers to a process in which individuals or businesses, generally named bidders, offer to set a price tag for goods or services, generally in an auction event. The goods or services are then sold to the bidder, offering the highest price. Traditional bidding involves an auction event involving the physical attendance of bidders and auctioneer in the same place and at the same time. Goods for bidding vary from computers and electronic parts, artwork, antiques, rare coins, vacation packages, airline tickets, and many other products.

A number of auctioning methods exist in the market. Among others are open cry auction, sealed-bid auction, multi-item auction, and vickrey (or second price) auction (Boyd & Mao, 2000). In the open cry auction case, the auctioneer invites bids, and the highest final bidder will be the winner. Another variation of the open cry auction is the multi-item auction. In this case, multiple copies of an identical item are offered for sale simultaneously, in which the method can optimise the seller's revenue (Bapna et al., 2001). At the end of the bidding process, each winner pays their bid price. One more open cry auction is the Dutch auction, in which the auctioneer offers the goods at a high price. If no bidder accepts the offer, the offer price is lowered until a bidder accepts. The winner of the auction is the first bidder.

The auction benefits both the seller and the buyers. On the one hand, an auction allows individual sellers or companies to sell their goods efficiently and require little action or effort. Generally, an auction creates a greater range of potential buyers. Potential buyers have greater interest, especially when competing with one another to bid on an item. However, this scenario does not exist when buying at a shop. On the other hand, buyers also benefit from an auction. They can get various goods and quality goods for largely discounted prices. In the case of bidding for a contract, a company awarding a project will have a selection of contractors that can offer the lowest price at the best value of service.

Although an auction benefits all transaction parties, the auction process is tedious and involves high administrative expenses. Hence, the electronic auction has been introduced in the market (Turban, 1997). It can be seen from the auctioning of pigs in Taiwan and Singapore and the auctioning of flowers in Holland, which were computerised in 1995. Nevertheless, both were done on local area networks. Hence, the coverage of potential buyers is still quite limited.

Despite this limitation, the online auction started to emerge with the introduction of the World Wide Web, with two pioneers, namely Onsale in May 1995 and eBay in September 1995 (Lucking-Reiley, 2000). Nevertheless, in the early days of internet auctions, attempts to hold real-time auction events have not succeeded. Only a few popular sites attempted to conduct protocols that are 'real-time' open outcry in the sense that offline auctions tend to be. To do so would require identifying the group of participants and broadcasting all bid messages (Wellman

& Wurman, 1998). In those days, online auctions came in a range of types and variations. Almost all were one-sided; the sellers ran themselves or were run by third parties.

However, the modern online auction has developed tremendously due to technological advancements and network connections. The online auction has a low entry barrier, attracting millions of sellers, and anyone can easily become a seller, although their performances differ significantly (Yen & Lu, 2008). Furthermore, it is less expensive than physical auctions and offers access for sellers to a broader spectrum of clients at a reduced cost (Wen & Wong, 2021). Small-scale auctions (Lin & Shrivastava, 2003), also termed customer-to-customer (C2C) online auctions, are gaining popularity (McLaughlin et al., 2017). This scenario is possible as more and more online auction sites are being offered in the market, providing convenience for their users (Majadi et al., 2018; Verhagen & Dolen, 2011). Auction sites typically earn revenues from commissions on sale amounts, possibly from sellers and buyers, listing fees from sellers, and entry fees from both sellers and buyers (Marra, 2021). Besides auction sites, the availability of alternative platforms in social media, such as Facebook, WhatsApp, and Instagram, also contributes significantly to C2C online auctions.

The online auction has gained more popularity during the COVID-19 pandemic. For instance, Bernaerts Auctioneers, one of Belgium's largest auction houses, has been forced to move to 100% sales to online auction due to the pandemic outbreak. This action is taken to avoid a 'bottleneck' situation with other auction houses once lockdown is released, resulting in scheduling conflicts and an oversupply of art that may result in lower prices (Kalbermatten & Rausch, 2021).

Hortacsu and Perrigne (2021) mentioned that online auctions always face the challenges of trusting sellers to deliver their promises despite gaining popularity. In responding to this, established online auctions, such as eBay, introduced feedback and reputation mechanisms in which buyers and sellers have the ability to rate their counterparty with a positive, negative, or neutral rating together with comments and reviews of the transaction.

Feedback and reputation mechanisms are important as online auctions suffer from inefficiency, fraud, and scams (Jenamani et al., 2007; The Star, 2016), trust and etiquette issues, and fair business dealings (Turban, 1997). Inefficiency issues may be due to participants' privacy (Naor et al., 1999), network connection lag, leaked information to bidders, non-payment of the auction winner, and bidders changing their minds after bidding. Furthermore, when the seller is unfair in the auction, participants are not treated equally and misrepresent the goods or even auction goods that do not exist. Some of these inefficiencies may be due to the limitations of online auctions. The bidders are unable to attend the auction session physically and mostly depends on the information available on the bidding platform.

Regarding fraud and scams, several cases have been reported involving e-bidding platforms in Malaysia. Research by Telenor Group revealed that e-bidding had been identified among Malaysia's three highest internet scams. A buyer purchases an item through an online auction but never receive it (The Star, 2016). As an example, Sinar Harian reported a case of a housewife losing RM2,499 when tricked into buying cheap auction gold on Instagram (Yusuf, 2021). Another case involving fraud and scams has been reported involving an online syndicate in Malaysia offering e-bidding of non-existent luxury goods using an online platform. The syndicate is believed to earn up to RM200,000 a day (Bernama, 2021).

In addition to inefficiency, fraud, and scam issues, Boyd and Mao (2000) highlighted several typical abuses of online auctions. Those abuses are bid shielding (high-value bid is withdrawn at the last minute, allowing a low bid to be accepted), bid siphoning (a seller observing an auction makes direct contact to a bidder to offer an alternative (or equivalent) item available directly to the bidder, allowing the seller to obtain buyers for their goods without paying the commission to the auction site), bid shilling (introduces spurious bids to force up the price), and bid sniping (last minute bidding in the hope of preventing other bidders from responding) (Majadi et al., 2018).

In the Malaysian context, the open cry auction is one of the bidding methods mostly applied in the market. Some of them are regulated e-bidding, while others are unregulated e-bidding. Regulated e-bidding refers to bidding in an online auction organised by licensed personnel. The high court of Malaya grants the license. Examples of regulated e-bidding platforms in Malaysia are High Court e-Auction and Property Auction House. Goods sold by these platforms are properties, such as houses, land, and vehicles. On the other hand, unregulated e-bidding refers to bidding in an online auction organised by companies or personnel. Examples of the unregulated e-bidding platforms in Malaysia are Chilindo and bidding conducted on social media platforms.

Shariah Requirements in Bidding

The jurist has discussed the concept of bidding under the contract of *bay al-muzayadah*. It is a sale contract in which a seller offers goods for sale in a market, with numerous buyers competing to offer the highest price. The process ends with the seller selling the goods to the person with the highest bid.

The basis of *bay al-muzayadah* is supported by the *athar* (practices based on the Companions of the Prophet ﷺ). Imam Bukhari wrote a specific topic on this concept and views of ‘Ata’ who mentioned that *bay al-muzayadah* had been practised by society in the sale of war booty. Another basis of *bay al-muzayadah* can be found in hadith narrated by Anas R.A. in which he reported that the Prophet ﷺ calling out for customers when selling a carpet and a water vessel. A man offered to buy them for one dirham. The Prophet ﷺ then asked for a higher bid. Another man offered two dirhams, and the Prophet ﷺ sold him the wares (Hadith 4518: Sunan al-Tirmizi and Sunan al-Nasa’i).

The majority of scholars believe that *bay al-muzayadah* is permissible. Al-Kasani and Ibn Humam, both are jurists of Hanafi Mazhab, mentioned that *bay al-muzayadah* is not prohibited because the Prophet ﷺ himself practised it. Based on this, Ibnu Qudamah, a jurist of Hanbali Mazhab, reported that it is permitted according to *ijma’*. According to Ibnu Juzay, a jurist of Maliki Mazhab, the principle of *bay al-muzayadah* is permitted, and it is different from the prohibition of Prophet ﷺ to offer for purchase on purchase of others (*saum ‘ala saum akhibi*). Besides, there is no element of unfairness in choosing goods.

Several requirements related to the pillars and conditions of the sale contract underlined by Islam need to be fulfilled to ensure that the bidding is Shariah compliant. The pillars of *bay al-muzayadah* are contracting parties (seller and buyer), subject matters of the transaction (price and goods sold), and the contract itself (*ijab* and *qabul*).

Regarding the contracting parties, both should be sane and puberty to ensure all contracts and conducts emanated from them are valid, and its legal consequences will take effect. With regards to the subject matters of the transaction, the bidding should be free from any elements of *riba*, uncertainty (*gharar*), gambling (*maysir*), non-Shari’ah compliant goods or services, injustice, and fraud to raise the bidding price (*najash*) (Al-aaidroos et al., 2019; Jamalludin et al., 2011).

Riba can happen in any sale transaction, especially when it involves a transaction of six (6) *ribawi* items, namely, gold, silver, dates, wheat, salt, and barley. Exchanging of a similar item in kind must be in equal measure and with immediate transfer of possession to avoid the occurrence of *riba*. It is in accordance to the Sunnah of the Prophet ﷺ:

“[Exchange of] gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, or salt for salt [shall be] in equal quantities and hand to hand (spot). If they differ in type, you may trade them as you wish provided it is hand to hand (without deferment on either side)” (Sahih Muslim, Hadith no. 2970).

In addition, it is important to ensure that the bidding does not involve any element of uncertainty. It is evidenced from the Sunnah of the Prophet ﷺ:

“The Prophet ﷺ forbade the sale of throwing pebbles and the sale of *gharar*” (Sahih Muslim, Hadith no. 1513).

Uncertainty refers to a sale in which the vendor is not able to hand over the goods to the buyer. Different types of transactions have been prohibited by the Prophet ﷺ due to uncertainty, for example, *al-mulamasah*¹ and *al-munabadhab*². The existence of uncertainty may render a contract invalid. It may result in oppression or injustice and loss of properties to one or both contracting parties. It is important to ensure that any element of uncertainty in a contract is voided.

Another prohibited element in bidding is gambling (*maysir*). Gambling refers to any business activity deriving monetary gains from mere chance, speculation, or conjecture. Islam prohibits *maysir*, as evidenced in the Quran.

“They ask you about wine and gambling. Say, “In them is great sin and (yet, some) benefit for people. But their sin is greater than their benefit.” And they ask you what they should spend. Say, “The excess (beyond needs).” Thus, Allah makes clear to you the verses (of revelation) that you might give thought (Surah al-Baqarah: 219).

Casinos are common examples of *maysir*, in which wealth transfer occurs from losers to the winner without creating a new stock of wealth.

Lastly, Islam also prohibits *al-tanajush* in a transaction. *Al-Tanajush* refers to the practice of deliberately bidding falsely for a product at a high price so that other bidders are willing to raise the price even higher. This practice is prohibited in bidding as eventually, one of the real bidders will get stuck with the object and have to buy it at a fake price.

METHODOLOGY

This study aims to examine e-bidding platforms in Malaysia from the Shariah perspective. The selection of an e-bidding platform for data collection is based on the convenience sampling method. It is due to the limited number of e-bidding platforms in Malaysia and the existing platforms applying a similar method in conducting online bidding.

The number of e-bidding platforms considered in this study is eight (8). The e-bidding platforms considered include regulated and unregulated e-bidding platforms. On the one hand, a regulated e-bidding platform refers to an e-bidding platform with auctioneers possessing a license from the authority in Malaysia, namely the High Court of Malaysia. On the other hand, the unregulated e-bidding platform does not require a license from the authority. Table 1 summarises information on the e-bidding platforms.

The majority of these platforms operate on their web-based platforms. However, only one platform uses a third party platform, namely Facebook.

Each e-bidding platform is assigned an identification code. The code ‘REBP#’ refers to a regulated e-bidding platform, in which the sign ‘#’ represents the number of regulated e-bidding platforms. While the code ‘UEBP#’ refers to an unregulated e-bidding platform, in which the sign ‘#’ represents the number of unregulated e-bidding platforms.

¹ *Al-mulamasah* is a sale in which the buyer just touches the garment he wants to buy at night or by daytime; and that touch will oblige him to buy it (Al-Khin et al., 1992)

² *Al-munabadhab* is a sale concluded when one man throws his garment at another and the latter throws his at the former and the barter is complete and valid without examining the two objects or being satisfied with them (Al-Khin et al., 1992)

Table 1: Information of E-Bidding Platforms

Platform	Regulated		Own platform		Code
	Yes	No	Yes	No	
Platform 1	√		√		REBP1
Platform 2	√		√		REBP2
Platform 3	√		√		REBP3
Platform 4	√		√		REBP4
Platform 5		√	√		UEBP1
Platform 6		√	√		UEBP2
Platform 7		√	√		UEBP3
Platform 8		√		√	UEBP4

Data from each e-bidding platform are collected based on observation of e-bidding live sessions and its published documents, such as the terms and conditions, user manual and procedure, bidding guidelines, and frequently asked questions. Observation of e-bidding live sessions is conducted by viewing the live bidding sessions on the platforms used by the company, such as live sessions on their website, YouTube live session, and Facebook live session. These observations took place in June and July 2021.

Data collected from e-bidding platforms are then analysed according to the Shariah requirements in the sale contract, as highlighted in the following research framework in Figure 1.

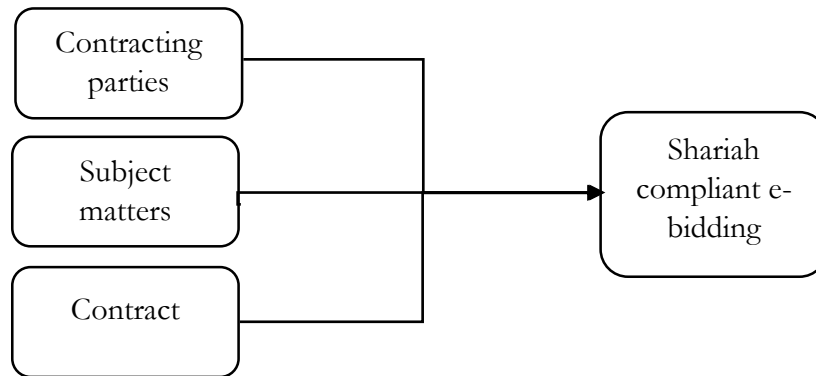


Figure 1: Research Framework

Contracting parties refer to the seller/auctioneer and the bidder. According to Shariah, the contracting parties should be sane and puberty. It can be done by verifying contracting parties involved in the bidding.

Subject matter in a sale contract refers to the goods and price of the goods. It should be free from any element of *riba*, uncertainty, and gambling regarding the goods. In addition, it should not be Shariah non-compliant goods.

Regarding the contract, the concern will be on the procedure to conclude the contract and whether the platform offers options to cancel the purchase upon delivering items.

RESULTS

Verification of Contracting Parties

According to Shariah, the contracting parties should be sane and puberty. Data collected from each platform revealed that most e-bidding platforms require each bidder to register with the system to start bidding. It allows the e-bidding platform to identify genuine bidders and blacklist

bidders with a bad track record. Table 2 highlights requirements put by e-bidding platforms for bidders to be eligible to participate in the e-bidding.

Table 2: Requirements for Bidders

Platforms	Requirements for bidders	Source
REBP1	<p>2.1 BIDDER ELIGIBILITY</p> <p>(a) Bidders who register to participate in the public auction through the e-Auction System expressly agree to the following Terms and Conditions: -</p> <ul style="list-style-type: none"> (i) The minimum age limit is 18 years or above, a sane person and not a bankrupt; (ii) Companies incorporated under the laws of Malaysia and not wound up; (iii) Has the full right, authority and permission to bid and purchase real estate; and (iv) Take, fulfil and perform all actions, conditions and things necessary (including obtaining any necessary permission) in terms of law to enable the Bidder to participate in the public auction. <p>2.2 BIDDER REGISTRATION</p> <p>(c) A copy of the identity document for the individual Bidder must be uploaded into the e-Auction System during registration.</p> <p>(d) For bidding by companies, documents related to company registration and Director's Resolution must be uploaded into the e-Auction System during registration.</p>	Proclamation of Sale
REBP2	<p>1. REQUIREMENT ON ELIGIBILITY AND REGISTRATION OF E-BIDDERS</p> <p>1.2. To participate in the online public auction, the party shall:</p> <ul style="list-style-type: none"> a) be an individual: 18 years and above, of sound mind and not a bankrupt; b) be a corporate body: incorporated under the laws of Malaysia and must not be in liquidation and be able to take, fulfil and perform all necessary actions, conditions and matters (including obtaining any necessary consents) in terms of law to enable E-bidders to participate in the public auction and complete the purchase in the event of successful bid. <p>1.3. To register as a user, a party is required to submit/upload the following documents through PAH Website:</p> <ul style="list-style-type: none"> a) Individual: Photocopy of NRIC/Passport b) Corporate: <ul style="list-style-type: none"> i) Memorandum and Articles of Association/Constitution of company ii) Board of Directors' Resolution iii) Form 24, Form 44, Form 49 or equivalent under companies Act 2016 or other applicable laws and a duly signed Board of Directors' Resolution. 	Terms and Conditions

REBP3

Bidders

5.1 Online registration

Once online registration is successful, the bidder is required to update profile such as full name, Mykad (if individual bidder), and phone number as shown in the following picture:

Terms and Conditions and website

REBP4

1. What are the qualifications to be a bidder?

- Individual/company bidder
- Malaysian citizen / permanent resident
- Aged 18 years and above
- Not bankrupt

Frequently Asked Questions

UEBP1

2. Registration

2.1 Before the Bidder can bid via Online Bidding, the Bidder must register at UEBP1 to bid online.

2.3 The Bidder will need to register for each auction event that he or she wish to bid on. It can be done through the relevant auction details screen.

The bidder needs to update the identification card number as shown in the picture below:

Terms and Conditions and website

UEBP2

Registration for UEBP2 is quite simple. Bidders can either register using a Facebook account or register using their e-mail address.

Website



UEBP3 Registration is done through the website. Required information is name, e-mail and phone number.

REGISTRATION

Website

1.3 During the registration process, Customers will be required to select a username (“ID”) and a password. Duplicate usernames will NOT be permitted, and individual usernames will be awarded on a first-come, first-serve basis. Customers having multiple accounts would be blocked from the Website and subject to termination of use of the Bideefy Services on the Website. The Website Provider reserves the right to refuse to issue or to cancel any transaction by the username that it deems misleading, obscene, or otherwise inappropriate for any reason whatsoever. The expression “Multiple Accounts” shall mean one (1) Customer having one (1) ID registered for more than one (1) account with the Website Provider.

Terms and Conditions

UEBP4 No registration is required because bidding can be done using a personal social media profile.

Live session on Facebook

From Table 2, it is found that all regulated platforms require individual bidders to be 18 years old and above and is not bankrupt. In addition, REBP3 and REBP4 require the bidders to be permanent residents of Malaysia. For this purpose, bidders need to submit their copy of identification card for verification.

Besides individuals, all regulated platforms allow a company to register as a bidder. REBP2 requires the company to be incorporated under the laws of Malaysia and must not be in

liquidation. For verification purposes, a company bidder needs to submit a photocopy of the Memorandum of Article of Association, Board resolution, Form 24, Form 44, and Form 49.

Although unregulated platforms, such as UEBP1, UEBP2, and UEBP3, require bidder registration, the bidder can register using e-mail or social media account, such as Facebook. After successful registration, the potential bidder needs to update the user profile containing personal information, such as full name, e-mail address, date of birth, and phone number. However, only UEBP1 requires an identification card number. Unfortunately, for UEBP4, the potential bidder can start bidding immediately in a live auction conducted on a Facebook page using their profile registered with Facebook. Hence, it is impossible to verify whether a bidder is a genuine bidder because some bidders are not using their actual name.

Verification of bidder is vital in e-bidding. It ensures that a bidder is a genuine person and a responsible person to join e-bidding. Failure to ensure a genuine person may lead to the deliberate action of bidding falsely for a product to raise the price higher. In addition, it may also attract the practice of joy bidder, referring to the act of bidding on items being auctioned but has no intentions of seriously purchasing the items. If the joy bidder wins in a particular bidding session, he/she will not pay the winning price. It is not good for the seller or auctioneer as they have already incurred costs and allocated time in arranging the bidding session.

Subject Matter

Non-Shariah compliant goods or services Table 3 highlights goods offered by e-bidding platforms.

Table 3: Goods Offered by E-Bidding Platforms

Platforms	Goods offered for bidding	Source
REBP1 & REBP2	Properties, such as house, shop lot, and land	REBP1 and REBP2 e-bidding website
REBP3	Automobiles, such as car, van, and motorcycle	REBP3 e-bidding website
REBP4	Gold bar and jewellery	REBP4 e-bidding website
UEBP1	Various items (such as antiques, arts, banknotes, coins, jewellery, painting, and stamps)	UEBP1 e-bidding website
UEBP2	Various items (such as household items, electronic and mobile gadgets, travelling and sports items, and DIY tools)	UEBP2 e-bidding website
UEBP3	Various items (electronic and mobile gadgets)	UEBP3 e-bidding website
UEBP4	Watches	UEBP4 Facebook page

Based on observation, the goods offered by all e-bidding platforms do not involve non-Shariah compliant goods. Types of goods offered in these e-bidding platforms vary from properties, such as house and land, car, gold, watch, and various items, such as household items, watches, electronic gadgets, travel items, sports items, and DIY tools. Regarding the transaction of goods involving *ribawi* items, the e-bidding platforms need to emphasise the Shariah requirement related to the transaction of *ribawi* items.

Bidding of Goods Involving *Ribawi* Items

Based on Table 3, it is found that two (2) e-bidding platforms, namely REBP4 and UEBP1, offer bidding of goods involving items. For REBP4, the goods being offered for bidding varies from jewellery, gold coin, and gold bar. As far as this is a concern, although REBP4 involves bidding of gold, the transaction does not attract any element of *riba* as jewellery has been considered free

from the condition underlined by Shariah. Hence, the exchange of subject matters does not need to be on-the-spot basis (Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam, 2011).

However, in the case of bidding on gold coins and gold bars in exchange for currency, Shariah has underlined the permissibility of the transaction at any mutually agreed price. Nevertheless, the Shariah requires immediate exchange of the subject matters. AAOIFI Shariah Standard No.57: Gold and Its Trading Parameters in Shariah stated:

‘3/1/3 Sale of gold for silver is permissible regardless of disparity in the weight of the counter-values; and sale of gold for currencies is permissible at any mutually agreed price. In both cases [gold for silver and gold for currencies] the counter-value must be exchanged as required by Shariah.’ - (AAOIFI, 2017).

To explain the Shariah requirement in the above clause, AAOIFI further elaborated:

‘2/6/1 When a contract is concluded for the sale of an amount of currency, possession must be taken for the whole amount that is the subject matter of the contract at the closing of the transaction’ (AAOIFI, 2017).

REBP4 considers the process of bidding by the bidders as the bidders’ intention to enter into a contract. It indicates that the exchange of subject matters must happen on the spot basis. In the REBP4 case, the conclusion of the contract will be concluded whenever the winner comes to the bank to collect the gold coin or gold bar. Hence, there is no non-Shariah compliant element occurring in this case.

Regarding UEBP1, the platform is found to offer to bid on banknotes. It includes banknotes that are no longer in the market and banknotes still in use but with special characteristics, such as special serial numbers. There are no Shariah issues pertaining to the bidding of banknotes that are no longer used in the market. However, selling banknotes currently being used in the market with similar currency should follow the Shari’ah requirement, namely, the transaction should be of equal amount and on the spot basis. AAOIFI Shariah Standard stated that:

‘2/1/2 The counter values of the same currency must be of equal amount, even if one of them is in paper money and the other is in coin of the same country, like a note of one pound for a coin of one pound’ (AAOIFI, 2017).

Similarly, the Policy Document on *Bai’ al-Sarf* issued by the Central Bank of Malaysia indicated that:

‘14.5 In the event that the exchanged currencies are the same, the transaction shall be done at par’ (AAOIFI, 2017).

Failure to observe this condition may lead to *riba al-fadl*, which is prohibited in Islam. However, in the bidding conducted by UEBP1, it is found that banknotes currently being used in the market reached the final bidding value, which is higher than its face value. For example, our observation revealed an RM50 banknote with special serial numbers of JJ7777777 being auctioned at a final price of RM8,500. Based on this example, *riba al-fadl* have occurred in the transaction.

Uncertainty (*Gharar*)

Table 4 presents the information related to the specifications and conditions of goods offered by REBP1 and REBP2.

Table 4: Specifications and conditions of goods in REBP1 and REBP2

Platforms	Specifications and conditions of goods	Source
REBP1	<u>PROPERTY DETAILS</u> Ownership No.: GRN160xxx Lot No.: Lot 71xx Mukim/District/State: JUASSEH/KUALA PILAH/Negeri Sembilan Title Type: Freehold Land Area: 796.53 square ft. / 74.00 square meter Registered Owner: Registered owner 1 Requirement: Rumah Teres	Proclamation of Sale

REBP1 and REBP2 offer an auction of properties that financial institutions charge. It is found that both platforms have provided information related to the property to its potential bidders through the Proclamation of Sale document. Among the information provided in the document are title number, lot number, district/state, freehold or leasehold, land area, registered owner, restriction, location, and reserve price.

Nevertheless, it is noted in the Proclamation of Sale that the auctioneer, the assignee/bank, and the bank's solicitors shall not be responsible or liable to the bidder as the property will be sold on 'as is where is basis'. The terms and conditions of both platforms indicate that it is the responsibility of the bidders to seek and obtain information regarding physical condition, liabilities, and other obligations pertaining to the property.

Although the scenario may lead to the issue of uncertainty, it is noted that without the term 'as is where is basis', the financial institutions may expose themselves to risks as normally the homeowner is still living in the house. Hence, there is a possibility that the homeowner will damage the house or not pay all the utility bills purposely while waiting for the house to be auctioned.

Table 5 presents the information related to the specifications and conditions of goods offered by the REBP3.

Table 5: Specifications and conditions of goods in REBP3

Platforms	Specifications and conditions of goods	Source
REBP3		REBP3 Website


Regarding REBP3, the prospective bidders may view the vehicle’s particulars being auctioned. REBP3 furnishes potential bidders with basic information: the make, model, location, legal owner, registration number, total kilometres covered, year of make, type of transmission, and availability of vehicle key. Pictures of the vehicle are also shared with potential buyers on the website. Nevertheless, the available pictures are unclear and could not provide detailed information on the vehicle.

In addition, the seller has to declare the condition of vehicles intended to be put on auction. Conditions of the vehicle, particularly vehicle that is flood contaminated, previous involvement in a major accident, insurance and claim history, the vehicle is written off, and vehicle encumbrance, are among important information that needs to be declared by the seller.

Furthermore, information such as the vehicle’s running condition and defects of the vehicles are vital to the bidder. Nevertheless, these are not available publicly. The potential bidders may obtain such information by requesting a vehicle inspection report from the auctioneer. Hence, the inspection report may overcome the potential issue of uncertainty and may disclose further information on the vehicle.

Table 6 presents the information related to the specifications and conditions of goods offered by the UEBP1.

Table 6: Specifications and conditions of goods in UEBP1

Platforms	Specifications and conditions of goods	Source
UEBP1	 <p>DESCRIPTION</p> <p>Late Qing Dynasty 晚清</p> <p>Pink ground teapot decorated with white and blue colour peony, peach lid handle. Base mark Dao Guang Nian Zhi (道光年制)</p> <p>One (1) piece Height: 9cm Width: 9.3cm Estimate: RM2,500 - RM3,800</p> <p>CONDITION</p> <p>Inner minor firing crack, external firing defect on pink colour blend</p>	UEBP1 Website

Regarding UEBP1, this e-bidding platform runs bidding of various items, such as antiques, arts, banknotes, coins, jewellery, painting, and stamps. Compared to other e-bidding platforms, UEBP1 furnishes bidders with pictures from various angles. In addition, the pictures provided by UEBP1 comes with a zoom function. It allows bidders to scrutinise the items and check for any flaws on items being sold before bidding. In addition, the platform requires that sellers listing goods in UEBP1 need to declare the condition of the goods being auctioned.

These requirements by UEBP1 are reasonable as they remove the element of uncertainty in e-bidding. Bidders will understand the risk they are exposed to when the seller or auctioneer gives adequate disclosure. That is why it is mentioned in the terms and conditions that UEBP1 does not warrant the content accuracy or completeness, or any defects will be corrected. Reliance on information shall be at the bidder's sole risk as UEBP1 provides online bidding service on an 'as is where is' basis.

Table 7 presents the information related to the specifications and conditions of goods offered by the UEBP3.

Table 7: Specifications and conditions of goods in UEBP3

Platforms	Specifications and conditions of goods	Source
UEBP3	8.2 If for any reason whatsoever The Website Provider is not able to source and send the item won in an auction within 30 days, the Website Provider will agree with the Customer to replace the winning item with an equivalent product. If the Website Provider and the Customer are not able to reach a consensus over the replacement product, the Website Provider has the right to compensate the Customer the retail value that is specified under the auction. The Website Provider has the choice to compensate the Customer either in free bids or in cash.	Terms and conditions

In the UEBP3 case, the issue of uncertainty may occur in its platform. This e-bidding platform stated in its terms and conditions that if UEBP3 is not able to source and send the item won in an auction within 30 days, UEBP3 will agree with the customer to replace the winning item with an equivalent product. It may attract the issue of uncertainty as it indicates that the seller does not possess the goods offered for bidding. Selling something which is not available has been prohibited clearly by the Prophet Muhammad ﷺ. Hence, this practice should be avoided by e-bidding platforms.

Gambling

The finding revealed a possibility of a gambling element in one of the e-bidding platforms, namely, UEBP3. This e-bidding platform offers to bid on electronic items and mobile gadgets. According to its terms and conditions, potential bidders have to buy bids in any bidding session. The price of a bid differs based on the amount of bid purchased. Table 8 indicates the bid price offered by UEBP3.

Table 8: Bids Prices

Number of Bids	Price
10 Bids	RM20.00
25 Bids	RM49.00
50 Bids	RM95.00
100 Bids	RM180.00
250 Bids	RM425.00
500 Bids	RM800.00
1000 Bids	RM1,500.00

During the bidding session, each bid entered by the bidder will raise the auction price by RM0.01 and reset the auction timer to another 30/60 seconds interval depending on the auctioned goods. The bidder with the highest bid will be considered the winner when the bidding session ends. In contrast, bidders who lose the bidding will not get back the bids used during the particular bidding session. It is clearly stated in UEBP3 Frequently Ask Questions.

“Will I get back my bids if I did not win? You will not get back your bids, but you can always use the ‘Buy Now’ option to purchase the item at a discounted price (stated retail price minus your bids spend RM1.50 per bid) during the auction and 12 hours after the auction finishes” – UEBP3 Frequently Ask Questions.

This practice is tantamount to gambling as it reflects the meaning of gambling: betting or charging something that will be forfeited if one fails to obtain the greater gain that one hopes to gain. Hence, the practice should be avoided by e-bidding platforms.

Contract

Procedure for the conclusion of the contract.

After the bidding session ends, the winner is given a specific period to settle the balance of the final price. Different e-bidding platforms have different periods given. For example, REBP1 and REBP2, the period to settle the balance of the final price must be within 120 days. It is clearly stated in the Proclamation of Sale:

“The successful bidder must settle the balance of the purchase price within one hundred and twenty (120) days from the date of the public auction” – REBP1 and REBP2 Proclamation of Sale.

In the REBP3 case, the winner have to settle the final price within five working days,

“The Purchased Price less Deposit (Balance Purchase Price) shall be paid in full by the Bidder to UEBP3 within five (5) working days from the date of successful of the bid (Payment Period).

The payment has to be made manually at the time of the collection of the vehicle. The Bidder shall also execute the Memorandum of Contract with UEBP3 simultaneous with the payment of Balance Purchase Price within the Payment Period. Provided always that the Bidder shall only be deemed as the successful bidder upon the system generating and invoice AND the buyer presents himself at UEBP3 to collect the vehicle and complete the documentation process within five days from the date of invoice” – REBP3 Terms and Conditions.

In the REBP4 case (within three working days),

“Payment must be made after the REBP4 contacts the winner and must not exceed three days thereafter” – REBP4 Frequently Ask Questions.

In the UEBP3 case (within 24 hours),

“The Customer agrees that if the Customer is the winning bidder, the Customer must pay the final price of the item within 24 hours after the confirmation via e-mail or to exercise the “Sell Now” option” – UEBP3 Terms and Conditions.

In the UEBP4 case (within 12 hours),

“Payment must be made within 12 hours” – Text message sent by UEBP4 to the winner.

In the REBP1, REBP2, and REBP3 cases, the winner will conclude the Memorandum of Sale or Memorandum of Contract with the e-bidding platform evidencing property sale.

If the winner fails to settle the balance of the final price, the contract will be deemed cancelled and terminated. For e-bidding platforms, such as REBP1, REBP2, and REBP3, requiring the bidder to pay a deposit, this deposit will be forfeited and used to cover the auction’s expenses.

“The sale becomes void, and deposit of 10% of the reserve price will be confiscated by the plaintiff to settle part of the defendant’s debt to the plaintiff after deducting all expenses accrued in the public auction” – REBP1 and REBP2 Proclamation of Sale.

“The transaction will be deemed as a forfeited transaction, and the Buyers Deposit and Buyers Premium shall be forfeited by REBP3” – REBP3 Terms and Conditions.

In contrast, unregulated e-bidding platforms not requiring a deposit can only cancel the contract and bear the auction cost themselves.

Hence, the requirement of deposit payment in e-bidding is essential. It can help the seller or auctioneer cover any losses that occurred due to the cancellation of purchase by the winning bidder and avoid the occurrence of the joy bidder. It is also in accordance with the application of *hamish jiddiyah* (security deposit) in Shariah.

Options (*Khiyar*)

Based on the observation, we found that only two (2) e-bidding platforms have stated that options are given to the winner after the sale has been concluded. In the REBP3 case, the platform ensures that the winner shall be entitled to a refund in the following cases:

- “10.1.4 if vehicles of ownership transfer cannot be registered due to the vehicle is being under criminal investigation by the Authorities; and
- 10.1.5 vehicles of ownership transfer cannot be registered due to the vehicle being identified as engine number tempered, chassis number tempered, and cut and join but was not stated in the remarks column of the Proclamation of Sales due to Sellers omission” – REBP3 Terms and Conditions.

Regarding UEBP3, it is stated in the terms and conditions that any quality issue related to the goods sold will be handled by UEBP3 customer support. It is clearly stated in UEBP3 Terms and Conditions:

- “Any case on product quality issue will be handled by our customer support only within 14 days after Customer has received the product. Cases that are submitted later than 14 days after the product has been received will not be handled” – UEBP3 Terms and Conditions.

This statement provides the customer with any quality issue related to the product he/she received. It is a good feature in e-bidding protecting the contracting parties' rights. Therefore, it should be offered by e-bidding platforms. The practice by both e-bidding platforms is consistent with Shariah on *khiyar al-ayb* (option to dissolve or continue the contract upon discovery of defect) and *khiyar al-ru'yah* (option to revoke a contract to be exercised on seeing the goods).

CONCLUSION

This study examines e-bidding platforms in Malaysia and highlights potential Shariah non-compliance issues based on the guideline offered by Shariah. This study employs a qualitative data analysis method based on data collected from the live bidding sessions of the e-bidding platforms and their published documents. The findings revealed several issues that need to be addressed by e-bidding platforms. First, e-bidding platforms are required to verify the potential bidders. It is important that the e-bidding platforms can identify first-hand whether a bidder is genuine. Verification can be done based on information on the identification card. In addition, this is vital so that any bidder with a bad track record in e-bidding can be blacklisted. Secondly, bidding of goods involving *ribawi* items should follow the Shariah requirements. For example, trading banknotes of the same currency should be of the same value and on the spot basis. It is to avoid the issue of *riba* in the transaction. Alternatively, the bidding of banknotes currently being used in the market is permissible if the bidding is offered with a different currency; for example, RM50 note with a bidding using USD currency.

Thirdly, uncertainty (*gharar*) is a significant issue in e-bidding. Most e-bidding platforms indicate that auction is based on 'as is where is basis'. Sellers and auctioneers may misuse this term to discharge their liability to ensure full disclosure of conditions of goods being sold. An

inspection report by independent third-party personnel prior to the e-bidding taking place is important so that the rights of bidders is not denied. Furthermore, an enhancement to the features of the e-bidding platforms should be done. Features, such as clear and good quality, multiple angles, and zoomable pictures, can help reduce the uncertainty of goods being sold. Fourthly, there is a possibility of gambling occurring in e-bidding. Therefore, any e-bidding model in which ‘winner takes all and loser losses all’ is prohibited as it is identical to gambling. Furthermore, it is recommended that the e-bidding platforms take deposits from interested bidders. These deposits can be taken as earnest money and can cover any cost related to the bidding should the winner be a joy bidder. Lastly, e-bidding platforms are recommended to offer *kehiyar*. Availability of *kehiyar* is important as the e-bidding platforms will gain trust from the potential bidders. In future, research in this area may consider understanding the behaviour of other parties involved in e-bidding. In e-bidding, the related parties involved are the auctioneer, the bidders, and in some cases, the seller. This study has partly covered the behaviour of auctioneers. Hence, future studies may consider studying the behaviour of bidders and sellers in e-bidding. Information related to this is imperative to give a broader view in developing a comprehensive Shariah guideline for e-bidding.

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REFERENCES

- AAOIFI. (2017). *Shari'ah standards*. Dar AlMaiman for Publishing & Distributing.
- Al-aaidroos, M., Jailani, N., & Mukhtar, M. (2019). Expert validation on a reference model for e-auctions that conform to Islamic trading principles. *Journal of King Saud University - Computer and Information Sciences*, 31(1), 62–71. <https://doi.org/10.1016/j.jksuci.2017.10.008>
- Al-Khin, M., Al-Bugha, M., & Al-Syarbaji, A. (1992). *Al-Fiqh Al-Manhaji*. Dar Al-Qalam.
- Bapna, R., Goes, P., & Gupta, A. (2001). Simulating online yankee auctions to optimize sellers' revenue. *Proceedings of the Hawaii International Conference on System Sciences*, 00(c), 177. <https://doi.org/10.1109/HICSS.2001.927066>
- Bernama. (2021). 29 terlibat sindiket penipuan bidaan dalam talian ditahan polis. Astro Awani. <https://www.astroawani.com/berita-malaysia/29-terlibat-sindiket-penipuan-bidaan-dalam-talian-ditahan-polis-297168>
- Boyd, C., & Mao, W. (2000). Security issues for electronic auctions. In *HP Laboratories Technical Report* (HPL-2000-90; Issue 90).
- Cox, J. C., Smith, V. L., & Walker, J. M. (1992). Theory and misbehavior of first-price auctions : Comment. *Amer. Econ. Rev.*, 82(5), 1392–1412.
- Hortacsu, A., & Perrigne, I. (2021). *Empirical perspectives on auctions* (NBER Working Paper Series No. 29511). National Bureau of Economic Research.
- Jamalludin, S., Jailani, N., Ahmad, S., Abdullah, S., Mukhtar, M., Bakar, M. A., Majid, M. A., Mokhtar, M. R., & Abdullah, Z. (2011). A Syariah compliant e-auction framework. *Proceedings of the 2011 International Conference on Electrical Engineering and Informatics, ICEEI*. <https://doi.org/10.1109/ICEEI.2011.6021624>
- Jenamani, M., Zhong, Y., & Bhargava, B. (2007). Cheating in online auction - Towards explaining the popularity of English auction. *Electronic Commerce Research and Applications*, 6(1), 53–62. <https://doi.org/10.1016/j.elerap.2005.12.002>
- Kalbermatten, S., & Rausch, C. (2021). Bidding better online in Belgium: The value of auction

- house expertise during the COVID-19 pandemic. *Arts*, 10(75), 1–12. <https://doi.org/10.3390/arts10040075>
- Lin, N., & Shrivastava, S. (2003). System support for small-scale auctions. *Proceedings of the Med-Hoc Net*.
- Lucking-Reiley, D. (2000). Auctions on the internet: What's being auctioned, and how? *The Journal of Industrial Economics*, 48(3), 227–252. <http://classifieds.excite.com/>
- Majadi, N., Trevathan, J., Gray, H., & Trevathan, J. (2018). A run-time algorithm for detecting shill bidding in online auctions. *Journal of Theoretical and Applied Electronic Commerce Research*, 13(3), 17–49. <https://doi.org/10.4067/S0718-18762018000300103>
- Marra, M. (2021). *Estimating an auction platform game with two-sided entry* (Working Paper Department of Economics). https://www.marleenmarra.nl/docs/workingpapers/Auctions_two_sided_entry.pdf
- Mclaughlin, C., Bradley, L., Prentice, G., & Loane, S. (2017). Consumer to Consumer (C2C) online auction transaction intentions: An application of the theory of planned behaviour. *DBS Business Review*, 1, 5–25. <https://doi.org/10.22375/dbsbr.v1.4>
- Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam. (2011). *Parameter pelaburan emas*. Jabatan Kemajuan Islam Malaysia (JAKIM). <http://e-muamalat.islam.gov.my/ms/bahan-ilmiah/fatwa-muamalat/113-parameter-pelaburan-emas>
- Naor, M., Pinkas, B., & Sumner, R. (1999). Privacy preserving auctions and mechanism design. *ACM International Conference Proceeding Series*, 129–139. <https://doi.org/10.1145/336992.337028>
- Pinker, E. J., Seidmann, A., & Vakrat, Y. (2003). Managing online auctions: Current business and research issues. *Management Science*, 49(11), 1457–1484. <https://doi.org/10.1287/mnsc.49.11.1457.20584>
- Pinker, E., Seidmann, A., & Vakrat, Y. (2010). Using bid data for the management of sequential, multi-unit, online auctions with uniformly distributed bidder valuations. *European Journal of Operational Research*, 202(2), 574–583. <https://doi.org/10.1016/j.ejor.2009.05.029>
- Roth, A. E., & Ockenfels, A. (2002). Last-minute bidding and the rules for ending second-price auctions: Evidence from eBay and Amazon auctions on the internet. *American Economic Review*, 92(4), 1093–1103. <https://doi.org/10.1257/00028280260344632>
- Technavio. (2018, August 1). *Global online auction market 2018-2022: Ease of bidding to boost growth*. Business Wire. <https://www.businesswire.com/news/home/20180801005715/en/Global-Online-Auction-Market-2018-2022-Ease-of-Bidding-to-Boost-Growth>
- The Star. (2016, March 11). *Malaysia is the most vulnerable country to internet scams in this region*. <http://www.thestar.com.my/business/businessnews/2016/03/11/malaysia-is-the-most-vulnerable-country-to-internet-scams-in-this-region/>
- Tolstoy, D., Nordman, E. R., Hånell, S. M., & Özbek, N. (2020). The development of international e-commerce in retail SMEs: An effectuation perspective. *Journal of World Business*, 56(3). <https://doi.org/10.1016/j.jwb.2020.101165>
- Turban, E. (1997). Auctions and bidding on the internet: An assessment. *Electronic Markets*, 7(4), 7–11. <https://doi.org/10.1080/10196789700000042>
- Verhagen, T., & Dolen, W. Van. (2011). Information & management the influence of online store beliefs on consumer online impulse buying: A model and empirical application. *Information & Management*, 48(8), 320–327. <https://doi.org/10.1016/j.im.2011.08.001>
- Wellman, M., & Wurman, P. (1998). Real-time issues for internet auctions. *Dependable and Real-Time E-Commerce Systems*, June. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.3.8580&rep=rep1&type=pdf>
- Wen, A. E., & Wong, H. (2021). Bidder and seller strategies in online auctions: A review. *Proceedings of the 2021 3rd International Conference on Economic Management and Cultural Industry*, 607(Advances in Social Science, Education and Humanities Research) (pp. 1993–1999). Atlantis

Press. <https://doi.org/10.2991/assehr.k.211209.325>

Yen, C. H., & Lu, H. P. (2008). Effects of e-service quality on loyalty intention: An empirical study in online auction. *Managing Service Quality*, 18(2), 127–146. <https://doi.org/10.1108/09604520810859193>

Yusuf, N. (2021, September 8). Suri rumah rugi RM2,499 terpedaya beli emas lelong murah. *Sinar Harian*. <https://www.sinarharian.com.my/article/160220/BERITA/Semasa/Suri-rumah-rugi-RM2499-terpedaya-beli-emas-lelong-murah>