

## Mobile Commerce from an Islamic Perspective

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### ABSTRACT

*This paper, titled "M-Commerce from an Islamic Perspective", identifies what Islam has to say about our current use of M-Commerce and the way Islam can offer guidance for its use in the future. The paper focuses on the product itself, the security and processing of the transaction right through to final payment and discusses them from an Islamic Perspective. The paper also touches on the conditions and criteria that must be met in order to make an M-Commerce transaction acceptable under Islamic law. There are a number of solutions to certain modern concepts already found in the Quranic verses, Hadith of the Prophet and opinions from the four scholars (Imam Syafie', Hambali, Maliki, Hanafie). The conclusions of this will include recommendations for the future use of M-Commerce. Finally, these results of this paper will offer Muslims a clear picture of M-Commerce and make them aware of the conditions necessary to validate the transaction under Islam and, in so doing, offer Muslims with advice on how to properly deal with this new technology.*

### 1.0 INTRODUCTION

Standing for mobile commerce, M-Commerce is one of the latest technologies to be developed over the past two years. It is defined as "the mobile devices and wireless networking environments necessary to provide location independent connectivity" [18].

Today, there are many things that are related to M-Commerce. Examples include the purchasing of airline tickets, movie tickets, making restaurant and hotel bookings as well as reservation [8]. The most popular business via M-Commerce in Malaysia is downloading ring tones and pictures via mobile phone. When using this service, a person is charged directly to their phone bill.

"Nowadays, the population of over 23 million and 7.3 million mobile subscribe as at end-2001 there is definitely a market opportunity for M-Commerce" [9].

The main focus of this paper is to study on how Islam perceives M-Commerce by providing the support from the Holy Book (Quran) and the conduct of the Prophet Muhammad (peace be upon him) (Sunnah and Hadith). This paper explores how Islam sees the transaction done via mobile device, what type of products are allowed to be purchased, and the security in conducting the transaction.

### 2.0 CURRENT PRACTICE

#### 2.1 PRODUCTS

People are able to purchase what they want by using cell phone. They, therefore, have the freedom to buy anything, anywhere, at any time. From an Islamic perspective, there are certain things that are prohibited e.g. alcohol, gambling, and pork and should not be considered in an M-Commerce transaction. Allah says in al-Quran:

**"O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination, of Satan's handwork: eschew such (abomination), that ye may prosper" [5:90].**

#### 2.2 TRANSACTION

People can conduct their banking transaction, paying bills, and products over their cell phones or PDAs. They will be able to transfer funds, check their account balances and accomplish any number of important tasks without the need to be at home or in the office. "Any of these spur of the moment purchases are permissible because Islam allow anything that makes life more convenient to its followers" [Ustaz Mustafa Omar].

**"On no soul doth Allah place a burden greater than it can bear. It gets every good that it earns, and it suffers every ill that it earns..." [2:284].**

There are other transaction done via mobile phone besides conducting banking transaction, such as voting, and contests via SMS, and others. Once the users sent the SMS, credit will be automatically deducted from the transaction. This phenomenon normally takes place through media, like TV, and radio station.

#### 2.3 POLICY

"In order to make both parties, customer and supplier satisfied with their transaction, the company must declare some agreements called policies. These policies enable both parties to fully trust the transaction. The policies require both parties to agree, or not with the transaction" [2]. This agreement is called *ijab* and *qabul*. "Before customer accepts the agreement, they have to know detailed information about the company and the product that they intend to buy. For example, the company gives the guarantee that their payment is secured by giving a password or account number. During the period of transaction, if there are any problems, the company will automatically block the transaction" [4].

### 3.0 ISSUES PERTAINING TO M-COMMERCE

#### 3.1 PRODUCTS

“The characteristics of the Malaysian user are such that they are more conservative in their purchasing habits and have less confidence in the capabilities of M-Commerce” [8]. Also, there is an issue among consumers who need to touch and feel a product before they make a purchasing decision. “Touch and feel” give more satisfaction to them rather than just “call and order”.

#### 3.2 TRANSACTION

The latest issue is regarding conducting contests via SMS to win big prizes. The Muslim scholars in Malaysia have concluded and issued the Islamic decree (fatwa) that such activity is prohibited (haram) since it is like a gambling. Based on the studies conducted by the Malaysian National Fatwa (religious decree) Council, “SMS contests showed they were exploitative” [14]. “The contests lure participants with big prizes but because most ultimately leave it to chance, this constitutes gambling and as such is deemed as violating the teachings of Islam” [14]. **“Satan's plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of Allah, and from prayer: will ye not then abstain?” [5:91].**

However, according to a member of the council, Datuk Seri Dr. Harrusani Zakaria, for polling or voting via SMS is permissible (halal) since one “do not win or lose anything by doing so” [16].

Another issue under transaction via mobile phone is that doctors are concerned about Repetitive Strain Injury (RSI), which is an injury associated to those who frequently use keyboard or computer mouse at work [17]. In the case of using mobile phone, according to Dr. Lim Beng Hai (Senior consultant hand surgeon at Mount Elizabeth Medical Centre), “everything your thumb and index finger pinch on each other, a force is transmitted onto the joint at the base of the thumb” [17].

#### 3.3 SECURITY

Security is another important challenge in M-Commerce environment [19]. The risks are related to the mobile device, radio interface, network operator infrastructure, and the kind of M-Commerce application [20]. Unauthorized access to the user data and eavesdropped of the network while transmitting the data is possible. Consumers can argue that giving credit card information over the phone may cause problems if the information falls into the wrong hands. According to hadith Prophet Muhammad (peace be upon him): **“It is unlawful for Muslims to take over other Muslim's property except by their consent”.**

### 4.0 RECOMMENDATION FOR M-COMMERCE

People are already using M-Commerce and enjoying its benefits. For those who have not tried the technology and may be interested in using it in the future, the following recommendations are made:

#### 4.1 PRODUCT

In Islam, business is encouraged as long as it is not against the Islamic rules. The Messenger of Allah Himself had engaged in trade. In one of the Hadith Prophet Muhammad (peace be upon him) narrated from Rifa'ah Ibn Rafai' that the Prophet was asked: **“What is the best profession one may engage?”. He (Prophet Muhammad (peace be upon him)) replied: “a business a man does on his own and every valid commercial transaction”.**

M-Commerce is just a part of business strategy. Any type of business will surely want to profit from it. For this reason, companies may create a side business in order to attract the customer to deal with them. So, customers have to be aware in participating into that business. Possibly the side business is legal in an Islamic perspective but the main business might be illegal or vice versa. Indirectly, we could be contributing to the illegal business.

When people wish to do business through mobile, they should ask for information about the products, company's background, ingredients of the products, etc. Muslims should have a clear picture of the products and ensure that the transaction is permissible under Islam.

In order to form a valid contract, Islamic law says that the contract should be based on mutual consent. In Hadith, Prophet Muhammad (peace be upon him) says: **“verily, the sale should be based on mutual consent”.**

#### 4.2 TRANSACTION

##### 4.2.1 Validity of M-Commerce

According to Ustaz Mustafa Omar, there are five conditions or steps in the process of purchasing goods through M-Commerce, which Islam states as a guideline in order to ensure the validity of the M-Commerce:

##### 1. Initiating the contract (al-ta'kud):

This is the beginning stage of initiating the contract for both parties (buyers and sellers). The channels of communication (mobile devices) must be capable to link to each other. The buyers have to check the status of the company to ensure the company is really exists and not fictitious. It is important to make sure all pillars are present: offer (Ijab), acceptance (Qabul), subject matter (Mahallul 'Aqd), and mode of expression (Sighah). **“O ye who believe! Fulfill your obligation” [5:1].**

2. Verification of the contract (sihha):

This is to specify whether the transaction is permissible and whether it can be delivered or not.

The contract must be free from:

- A. Riba' (usury), which is prohibited in Islamic law especially when people pay through credit card. **"God hath permitted trade and forbidden usury..." [2:275].**
- B. Gambling (maisir). **"They ask thee concerning wine and gambling. Say: In them is great sin..." [2:219].**
- C. Uncertainty, which it should be clarity in the communication (the system works properly), must be clear and must ensure that data is transmitted without any interruption.
- D. Deceit or fraud.
- E. Duress, which the contract must be of mutual consent.

3. Implementation (nafath):

At this stage, two things must be confirmed. First, to ensure the person who offer the product is the real owner and has absolute rights and authority over the product. Second, the product is free from any liabilities.

4. Binding (ilzham):

No body should pull out; if a new product is not familiar, the seller is duty bound to convince the buyer [1].

5. Completion (tamam):

This is the final stage, which is to exchange the counter value between prices and the goods [1], and have to response directly.

#### 4.2.2 Legality of M-Commerce

The most important thing in an M-Commerce transaction is to make sure that all the Islamic pillars are being followed: offer (Ijab), acceptance (Qabul), subject matter (Mahallul 'Aqd), and mode of expression (Sighah). In addition, there are three other conditions to ensure the legality of M-Commerce according to Ustaz Mustafa Omar, which are:

- There should be clarity, meaning that the devices must be capable of communicating clearly between seller and buyer. Offer and acceptance show that the two contracting parties are committed to conclude the contract. According to Imam Hambali and Maliki, a contract is valid if there is clear indication of mutual consent between the contracting parties.
- The transaction process must be continuous without interruption. Any interruption such as the communication between seller and buyer suddenly breaking can invalidate the transaction. To show there is continuity, Syafie scholars say that the offer should be accepted immediately after being made.

- There must also be an agreement between the seller and the buyer. Both parties must understand each other and all the issues must be addressed. Allah says in surah An-Nisa':

**"... But let there be amongst you traffic and trade by mutual good-will..." [4:29].**

With regard to payment and methods of delivery, all things that are related to usury should be avoided.

**"O ye who believe! Devour not usury, doubled and multiplied..." [3:130].**

M-Commerce is permissible in Islam. Based on this statement, all the illegal aspects such as usury or gambling will not be tolerated once the transaction process and method of payment is clear. In the future, this technology will help to reduce the illegal aspects that can make transactions invalid. In Islamic law, usury (riba') is prohibited and emphasized by Prophet Muhammad (peace be upon him) **cursed the one who accepted riba' (lender, bank), the one who paid it (creditor), two witnesses of it (guarantors) and the one who recorded it (secretary).**

If the above have been implemented, all Islamic countries can link to each other for conducting businesses without the worry of permissibility and Islamic legality. It can open one's eyes to the new technology. It will teach how to create new applications once the technology is understood bringing the Islamic society (ummah) to the fore once again.

Before the era of globalization, people had to see each other in order to conduct a business transaction. They sat together, discussed and bargained between supplier and customer. This concept is called 'majlis' and is a style of transaction that will make people able to communicate directly between both parties. Nowadays, this practice rarely happens because of the existence of new technologies like M-Commerce. In using this, people do not have to be face to face or be in one particular place to shop. In order to get what they want, they simply lift the phone and the transaction is done.

For transaction via SMS such as contests, and voting, the Muslim scholars should provide "guidelines, and a definition of SMS contests that had elements of gambling forbidden by Islam" [15].

In the case of health issue caused by mobile phone in dealing with transaction, it is recommended to avoid prolonged sessions [17]. **Narrated by Mujahid: 'Abdullah bin 'Umar said, "Allah's Apostle took hold of my shoulder and said, 'Be in this world as if you were a stranger or a traveler." The sub-narrator added: Ibn 'Umar used to say, "If you survive till the evening, do not expect to be alive in the morning, and if you survive till the morning,**

**do not expect to be alive in the evening, and take from your health for your sickness, and (take) from your life for your death".**

#### 4.3 PRIVACY

When using M-Commerce, people are understandably concerned about privacy. Mobile privacy concerns have to focus on the protection of 'customer identifiable information', which an individual or other customer reasonably expects to be kept private. Information which can be associated with a specific individual for example a customer's name, address, telephone number, e-mail address and information about their mobile activities should be kept confidential. In Islam, personal privacy is very important. Prophet Muhammad (peace be upon him) said, **"If you want to take someone property ask his permission first."**

#### 5.0 CONCLUSION

Information technology and mobile commerce are interrelated with business to increase productivity, enhance customer services and cut the cost of transaction and delivery. Shopping online provides more variety of goods, and more advanced compare to the traditional stores. Consumers enjoy shopping online. Whatever the way consumers deal with this business, Islam has laid out the basic requirements that both parties have to fulfill before, during and after the process of buying and selling. This in order to make sure that no one person is being manipulated by anyone. In the case of M-Commerce, Islam encourages Muslims to pay more attention to the steps of the contract. This will make the buyer and the seller come together to set out or to fulfill the essential elements that must be present before they can proceed to the next stage. In this way, both parties must agree with each other and after that only the second stage proceed. If, at the first stage, they unable to fulfill the requirements, it is better for them to stop and not to proceed with the contract. In addition, Islam also gives equal rights to the producer of the product so that they can exercise their rights when needed.

Basically, Islamic laws is concerned about two things when dealing with transaction and business. First, the right of one human to deal with another human and second is the right of a human before the Lord. Human rights with other individuals generally cover the aspect of laws, ihsan and transaction (muamalat) in which Islam covers every aspect of life. The right between a human and the Lord is covered in this world and the hereafter. God will reward every good Muslim and punish everything that is bad. In all things that a Muslim may wish to do, there are basic measures leading from the intention as Prophet Muhammad (peace be upon him) said: **"Every action is measure from the intention"**.

In a nutshell, if a person uses this new technology properly and appropriately, it will give many advantages. But if it is used in way such that the intention is to gain profit at the others' expenses, then they ought to think twice as, in Islam, this world does not mean everything. God has already commanded us to be equal and balance our life in both, this world and the hereafter and this new technology, M-Commerce, can be one of the ways to achieve success in both worlds by using and practicing it in the right way. This will indirectly lead them to conduct transactions honestly because they understand and realize that whatever they do, God (Allah) will see them. Every action that Muslims do is under His supervision and they cannot run from His rules. If others do not see their evil they should remember that nothing escapes God (Allah). **"Ye are the best of the people, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in Allah" [ ]**.

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