

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Treasury Portfolio**  
Budget Estimates 2014  
3 June to 5 June 2014

**Department/ Agency:** Australian Securities and Investments Commission

**Question:** BET 14

**Topic:** AET 29 – Commonwealth Bank takeover of BankWest

**Reference:** Hansard p29, 4 June 2014

**Senator:** Ruston OBO Eggleston

**Question:**

Senator RUSTON: I would like to ask some questions on behalf of Senator Eggleston, who is not able to be here because he is chairing another committee. Senator Eggleston asked me to ask these questions, so forgive me if I do not understand all of the detail. He wanted to raise a question in relation to questions at the estimates in February—in particular, question No. 29 in relation to the Commonwealth Bank takeover of BankWest. Apparently, the response to his question took six weeks longer than the deadline by which answers to questions on notice were due. He asked a question about whether there had been an ASIC review of the Commonwealth Bank takeover, and the written answer he got was basically no. He is wondering why it took so long to say no.

Mr Day: I can take that on notice. In terms of the answer no, if you want me to revisit the substantive question I am happy to do that.

Senator RUSTON: Thank you. I have got an article from *the Australian* on 6 August 2013. Senator Eggleston noted that this article, ‘ASIC review CBA resort dispute’, states that ‘the corporate watchdog is making inquiries into property developer Rory O’Brien’s \$512 million unconscionable conduct claim against the Commonwealth Bank’. It goes on to quote Mr O’Brien as saying, ‘I was contacted by an ASIC officer who said he wanted to review my evidence and the spokesperson confirmed that ASIC had obtained the affidavit but said at this stage there was no formal investigation because the commission was only reviewing the case’. Senator Eggleston drew the parallel between that and his question on notice—if there was no review, why are you referring to a review in a newspaper article?

Mr Day: We are happy to revisit the question and consider that article and whether there are any inconsistencies there and, if so, explain those.

**Answer:**

14. ASIC acknowledges that we did not respond promptly to Senator Eggleston’s question AET 29 about whether a specified ASIC officer reviewed the Commonwealth Bank of Australia’s takeover of BankWest during a specified time period.

In this regard, ASIC’s response to question AET 29 notes that ASIC did not review the takeover; however, the response confirms that ASIC did consider reports of misconduct and review material provided in support of reports of misconduct about the takeover.

ASIC’s response to AET 29 required us to search our records and collate information from a number of teams within ASIC about our consideration of reports of misconduct about the takeover that we had received during the time period specified in the question. This search and collation task took longer than expected, and we apologise for the delay in providing the response.

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In the context of ASIC's processes, our assessment of these reports of misconduct and review of material received in support of reports of misconduct was not a review of the takeover itself. Our response to question AET 29 confirms that we did not review the takeover as a transaction in the way that we understood Senator Eggleston's question to define the term 'review'.

The quotes that have been referred to are not direct quotes from the ASIC officer. The use of the word 'review' in the article from *the Australian* is likely to refer to ASIC's assessment of a report of misconduct from Mr O'Brien and not an ASIC review of the takeover transaction.

ASIC considered this material in accordance with our normal assessment process to determine whether we should take further regulatory action in response to any concerns raised in reports of misconduct. As noted in our response to question AET 29, ASIC determined not to take further action.