

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

**Department/ Agency:** ACCC

**Question:** BET 16-18

**Topic:** Telstra

**Reference:** Hansard page 36, 4 June 2014

**Senator:** Conroy

**Question:**

16. Under the Telecommunications Act, once the ACCC has accepted Telstra's structural separation undertaking it cannot be withdrawn. Is that correct?
17. Telstra was given a choice to voluntarily structurally separate or undergo functional separation. Just to confirm, under existing legislative arrangements—now that the SSU has been accepted—Telstra is no longer in a position to go down the functional separation path, is it?
18. Under what circumstances can the SSU be modified? Can the SSU be modified such that Telstra will not undergo structural separation under current legislation?

**Answer:**

16. Subsection 577A(17) of the *Telecommunications Act 1997* provides that Telstra's structural separation undertaking cannot be withdrawn.
17. Telstra cannot submit a functional separation undertaking to the ACCC for approval as the provisions of the *Telecommunications Act 1997* relating to the functional separation of Telstra do not apply after a structural separation undertaking accepted by the ACCC comes into force. These provisions are contained in Part 9 of Schedule 1 to the *Telecommunications Act 1997*.
18. There is no provision in the *Telecommunications Act 1997* for Telstra to vary or withdraw its commitment to structural separation, which is contained in clause 5 of Telstra's structural separation undertaking. However, section 577B of the *Telecommunications Act 1997* does allow Telstra to submit a variation of the undertaking in so far as the undertaking requires Telstra to take specified action or refraining from taking specified action in order to effect structural separation.