



## THE WNBA-WNBPA 2020 COLLECTIVE BARGAINING AGREEMENT NEGOTIATIONS: BETTING BIG ON WOMEN

On November 1, 2018, the Women’s National Basketball Players Association (WNBPA) informed the league that it had decided to opt out of the Collective Bargaining Agreement (CBA) that had been signed in 2014 and was scheduled to run through 2021. The opt-out would become effective at the end of the 2019 season, on October 31 or the day following the final playoff game of the 2019 season, whichever came second. Appendices to this case study provide background information on three areas—the Women’s National Basketball Association (WNBA) heritage from its first season in 1997 (Appendix A); the WNBPA (Appendix B); and the first four CBAs in 1999, 2003, 2008, and 2014 (Appendix C).

### THE OPT-OUT

The WNBPA’s November 1998 decision to opt out came as little surprise. “We always expected that the players would opt out,” said Jamin Dershowitz, general counsel to the WNBA. “You don’t know for sure, but we planned for that to happen.”<sup>1</sup> Indeed, said Bethany Donaphin, the head of WNBA league operations, if viewed from the players’ perspective, the “biggest win” of the 2014 agreement had been an increase in the roster size from 11 to 12 players. That aside, she said, “There were not any significant gains from a financial standpoint, and salary increases were minimal.” Michael Goldsholl, director of operations for business and legal affairs at the WNBPA, agreed. “We just felt like there was so much wrong with the [2014] CBA. There were even times we were like, ‘What more could they want to take from these players, honestly?’...it was just something that was outdated.” [The WNBA leadership team had turned over entirely since 2014; no members of the 2018 WNBA leadership were in

<sup>1</sup> Unless otherwise noted, quotations included in this case study come from author interviews with WNBPA leaders and officials.

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place when the 2014 CBA was negotiated and signed.]

In a 2020 profile of Los Angeles Sparks forward and WNBPA President Nneka Ogwumike, the *New Yorker* magazine described some of the problems players noted about the 2014 CBA:

Under the W.N.B.A.'s old collective-bargaining agreement, Ogwumike, the year (2016) that she was the M.V.P., made \$63,710. The league's average salary was around seventy-five thousand dollars; the league minimum was about thirty-five thousand. Spots in the W.N.B.A. are limited, the competition is ruthless, and life on the road can be grueling. Most players supplement their income by going overseas—to China, Turkey, Spain, Russia—where the money is better. European contracts involve confidentiality, Ogwumike's agent, Lindsay Colas, told me, but, under the old salary structure, a player of Ogwumike's calibre could make five to eight times the top W.N.B.A. salary—and a few players were making ten to fifteen times what they made in the United States. But the sacrifices were real. "When I say Siberia, it's not a figure of speech," Howard Megdal, who reports extensively on women's basketball, told me of where some athletes end up competing. "Players who wanted to have relationships, friends, lovers, whoever, simply didn't have them."<sup>2</sup>

Most WNBA players were obliged to share hotel rooms when on the road. "Players weren't getting their own hotel rooms on the road until their sixth season in the league," said Goldsholl. "Nneka Ogwumike during her MVP season with the [Los Angeles] Sparks, she was sharing a room on the road. I don't know what other sport you would even imagine that happening. It was things like that. There were things that were just unacceptable and that couldn't continue under a new agreement." WNBA players also traveled via commercial airline flights, generally in economy class.

In the years since the 2014 CBA had been signed, players had become increasingly vocal about their dissatisfaction with the conditions under which they worked. As a *Slate* columnist put it in early 2020:

On social media, players documented all sorts of headaches—disruptive travel delays on commercial flights to road games, 6-footers stuck in middle seats—many of these upsetting because they were quotidian, the hassles that you and I, talentless nobodies, might tolerate, but which stratospherically good basketball players who depend on their bodies shouldn't.

One incident set the tone for the season: In April, six months after WNBA players opted out of their last collective bargaining agreement and one month before tip-off, then-reigning Finals MVP and 2018 WNBA champion Breanna

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<sup>2</sup> Louisa Thomas, "Nneka Ogwumike and the WNBA's Big, Complicated Moment," *The New Yorker*, August 3, 2020, <https://www.newyorker.com/culture/persons-of-interest/nneka-ogwumike-and-the-wnbas-big-complicated-moment> (April 2, 2021).

Stewart of the Seattle Storm tore her Achilles tendon while playing in a European league. (Given the WNBA's unimpressive pay, most of its players supplement their incomes by playing in leagues abroad during the off-season.) Where and when Stewart was injured is ammunition enough for a labor fight, but how it occurred is infuriating, too: She leapt for a jumper and landed awkwardly on the foot of her defender, Brittney Griner—a veteran six-time WNBA All-Star who happens to spend most of the year playing for a Russian club called UMMC Ekaterinburg. The scene plays like some cruel twist in a fateful meeting: Two women, neither of whom is there in a just world, collide in the most unfortunate way.<sup>3</sup>

Many months of conversation nonetheless preceded the WNBPA's November 2018 final decision to opt out. Indeed, said Goldsholl, the WNBPA started preparing long before the opt-out deadline by surveying the players and holding multiple meetings and conversations. Their goal was both to understand the players' concerns and at the same time ensure the players understood what the current CBA entailed and what were the ramifications of an opt-out. Goldsholl elaborated:

It was [WNBPA executive director] Terri [Jackson] and [director of player relations] Jayne [Appel-Marinelli], doing team meetings on the road. They would visit as many teams in team market as they could and present to them and survey them, ask questions... get them educated on the nuances of the CBA, especially at the player leadership level too... I can't give enough credit to our executive committee and the player representatives... They were absolutely fantastic.

Ogwumike explained that she and her colleagues on the executive committee spent weeks discussing the 2014 CBA with players and asking if they were content with it. As the conversations went on, she said, a number of players began expressing opposition to it. She continued:

Not any type of combative opposition, but just like, we came to the agreement together that things can be better—let's make them better. That was the attitude that we had, as well as: we know our value and we want to see it reflected in an agreement that represents us and that protects us. We believe that we can bring our value to the table, and we also believe that the league knows our value, that they can bring more as well... and ultimately the league was like, "All right, let's see what we can do," and that's how the conversation started.

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<sup>3</sup> Maitreyi Anantharam, "WNBA Players' New Contract is a Good Step – but It's Not Enough," *Slate*, January 21, 2020, <https://slate.com/culture/2020/01/wnba-cba-contract-critique-progressive-inadequate.html> (April 2, 2021).