

AGREEMENT FOR WEATHER CAMERA SPONSORSHIP

This Agreement is between the City of Newport, an Oregon municipal corporation (hereinafter City), and KPTV-KPDX Broadcasting Corporation (hereinafter Contractor). This Agreement shall be effective when signed by both parties.

RECITALS

- A. Contractor has the training, ability, knowledge, expertise, and experience to provide services described in Exhibit A to this Agreement, and desired by the City.
- B. City has selected Contractor to provide services pursuant to, and consistent with, its public contracting rules.

TERMS OF AGREEMENT

1. SERVICES TO BE PROVIDED

Contractor shall begin services on July 1, 2020. Payment shall not be made for any other services without the written agreement by the City.

Contractor shall provide the services described in the Contractor's proposal (Exhibit A to this Agreement). The 200,000 advertisements per month, as part of the sponsorship, shall be accounted for on the 'live track impressions'. Reports of the 'live track impressions' shall be provided to City by Contractor on a weekly basis.

2. TERM

This Agreement shall be for a one-year period beginning on July 1, 2020, with two potential one-year extensions at the sole discretion of the City.

3. COMPENSATION

Contractor shall be compensated as described in Exhibit A to this Agreement. City elects to pre-pay the sum of \$35,100 due by June 26, 2020. If this Agreement is extended, the compensation will be as follows: \$42,000 due by June 15, 2021; and \$42,000 due by June 15, 2022.

4. ASSIGNMENT/DELEGATION

Neither party shall assign or transfer any interest, obligation, or duty under this Agreement without the written consent of the other.

5. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

A. Contractor acknowledges that Contractor is an independent Contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled, and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of the finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of the finding.

B. Contractor represents and warrants that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive anything of value or remuneration of any description from Contractor, directly or indirectly, in connection with this Agreement, except as specifically declared in writing to the City.

C. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

6. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws. Acceptance of Contractor's work by City shall not operate as a waiver or release. Contractor agrees to indemnify and defend the City, its officers, agents, employees, and volunteers, and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments, or other costs or expenses, including attorney fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place), that may be asserted by any person or entity, which in any way arise from, during, or in connection with the performance of the work described in this Agreement, except to the extent that the liability arises out of the negligence of the City and its employees.

7. METHOD AND PLACE OF SUBMITTING NOTICE, BILLS, AND PAYMENTS

All notices, bills, and payments shall be made in writing and may be given by personal delivery or mail. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices and other information:

CITY

City of Newport
169 SW Coast Highway
Newport, Oregon 97365

CONTRACTOR

KPTX-KPDX Broadcasting Corporation
14975 NW Greenbrier Parkway
Beaverton, Oregon 97006

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery.

8. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms, and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless, and until, it is made in writing and signed by both parties.

9. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates this Agreement under this paragraph 9, it shall pay Contractor for services rendered to the date of termination. Notice of termination shall be provided to Contractor sixty (60) days prior to the date of termination.

10. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

1. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.

3. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
4. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.
5. If City determines, in its sole discretion, that termination of this Agreement is in the best interests of the City.

Any such termination of this Agreement under this paragraph 10.A. shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor may terminate the whole, or any part, of this Agreement:

1. If Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or
2. If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above provision related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under this paragraph 10.B., Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable attorney fees, and other costs of litigation at trial and on appeal.

11. ACCESS TO RECORDS

City shall have access to books, documents, papers, and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.

12. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of nature or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall, within ten (10) days from the beginning of the delay, notify the other party in writing of the cause of delay and its probable extent. The notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default, and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

13. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

14. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

15. EXTRA WORK

Only the City Manager may authorize additional work not described in Exhibit A to this Agreement. Failure of Contractor to secure written authorization for work not described in Exhibit A shall constitute a waiver of all right to adjustment in the contract price, or contract time, due to such unauthorized extra work, and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

16. ATTORNEY FEES

In the event suit or action is instituted to enforce the provisions of this Agreement, the parties agree that the prevailing party shall be entitled to such sum as the court may adjudge reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

17. GOVERNING LAW

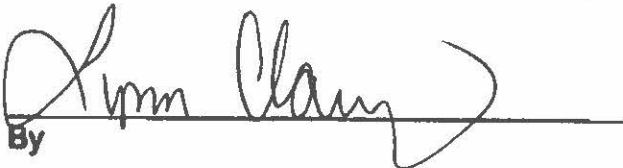
The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to choice of law principles. Any actions or suits arising under this Agreement must be brought in the appropriate court of the State of Oregon.

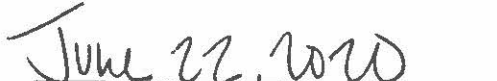
CITY OF NEWPORT

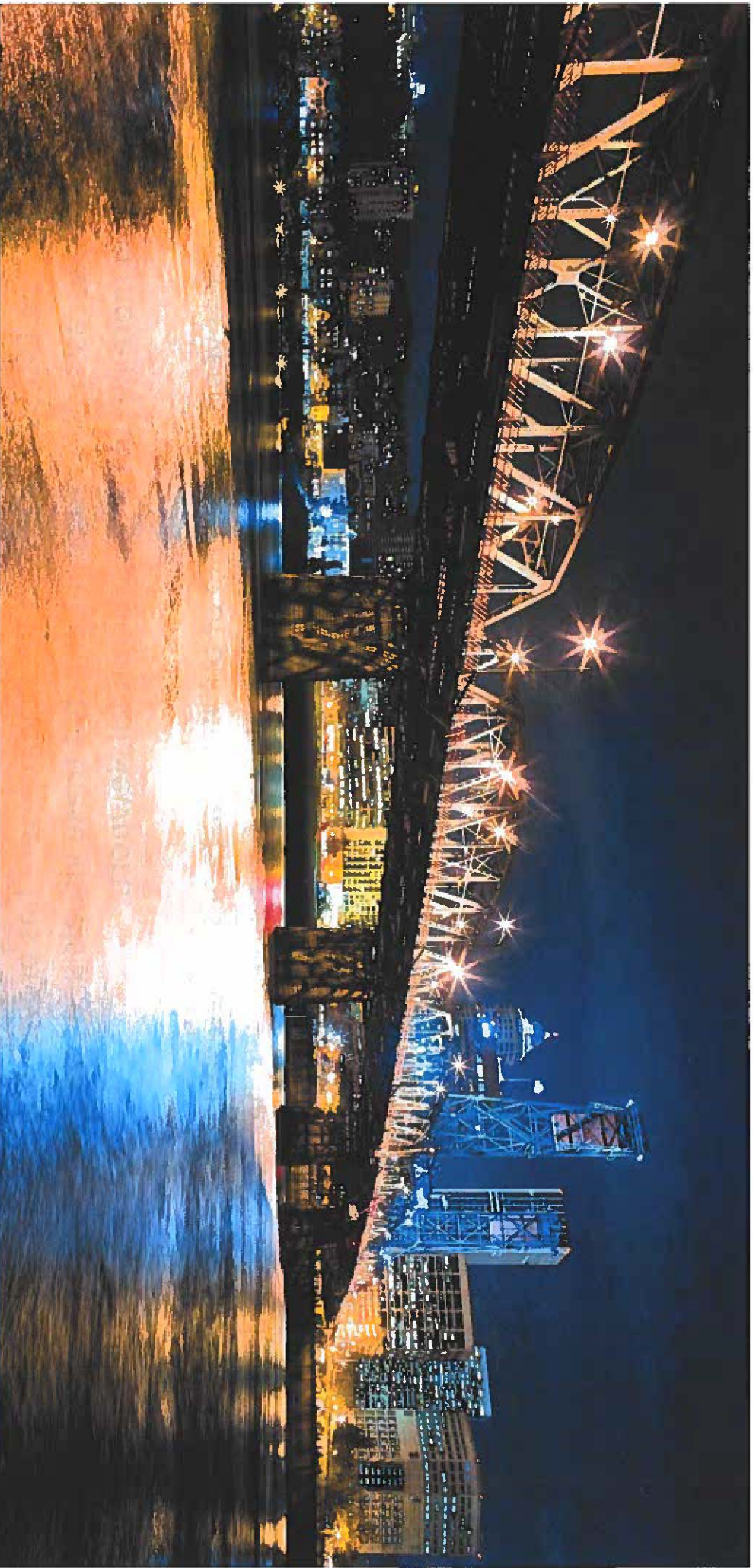

Margaret M. Hawker, Acting City Manager


Date

KPTV-KPDX BROADCASTING CORPORATION


By


Date



Presented to: Jeremy Burke, Marketing Director City of Newport
Presented by: Lynn Clary & Monica Olson, FOX 12 Oregon

2.24.2020

FOX 12
OREGON

FOX 12
PLUS+

kptv.com





City of Newport Weather Camera Renewal 7/1/2020 – 6/30/2023

FOX12 has appreciated our partnership the past three years with the City of Newport. The Discover Newport Weather camera has provided great visuals in our various newscasts. We are confident that these visuals and news mentions have resulted in more people visiting beautiful Newport.

Over the last 3 years viewership of our newscasts has grown and we have safely secured our position as the #1 news station in the market. We have also added more hours of news programming – now airing a total of 113 hours of news each week – more than any other station in Oregon. We are happy to report that the City of Newport has received viewership above and beyond what was originally promised!

The following pages outlines the renewal agreement as well as the enhancements that the next 3 years will bring.



FOX 12 – FOX 12 PLUS

Weather Camera Sponsorship 2020 - 2023

New 3-year Agreement Includes the following:

- Weather Camera will remain in current location
- Weather camera branding to be Discover Newport, and may reflect any new branding efforts on the city's behalf. (we can change this at any time)
- Weather camera to be featured in various FOX 12/FOX 12 PLUS newscasts; includes a combination of audio and logo (no tagline), *minimum 30x monthly. On average, every month Discover Newport will receive 963,000 TV impressions.
- Weather camera to receive exposure on KPTV.COM's weather section; still image updated regularly. Video or image posted on FOX 12 Facebook page; based on News Department's discretion.
- City of Newport banner ads to run across all KPTV.COM devices, **ROA – 205,000 monthly impressions in year 1 and 325,000 impressions in year 2 and year 3.
- City of Newport agrees to continued dedication of a minimum 20 meg bandwidth (internet) connection for the weather camera for a quality picture, and 115 volt power nearby (or supplied to the housing if used).

*last agreement stated minimum of 20 monthly mentions

** last agreement started with 200,000 impressions on weather.com until this partnership with the station was dissolved and exposure was moved to kptv.com





FOX 12 – FOX 12 PLUS

Weather Camera Sponsorship 2020 - 2023

Partnership Commitment: \$3,850 NET per month (Monthly VALUE: \$8,550!)

Year 1 (July 2020-June 2021) Annual pre-pay discount: \$2,925 NET per month
(total of \$35,100 net annual, due by June 22nd 2020)

Year 2 (July 2021-June 2022) Annual pre-pay discount: \$3,500 NET per month
(total of \$42,000 net annual, due by June 15th 2021)

Year 3 (July 2022-June 2023) Annual pre-pay discount: \$3,500 NET per month
(total of \$42,000 net annual, due by June 15th 2022)

Client Signature: _____

Date: _____

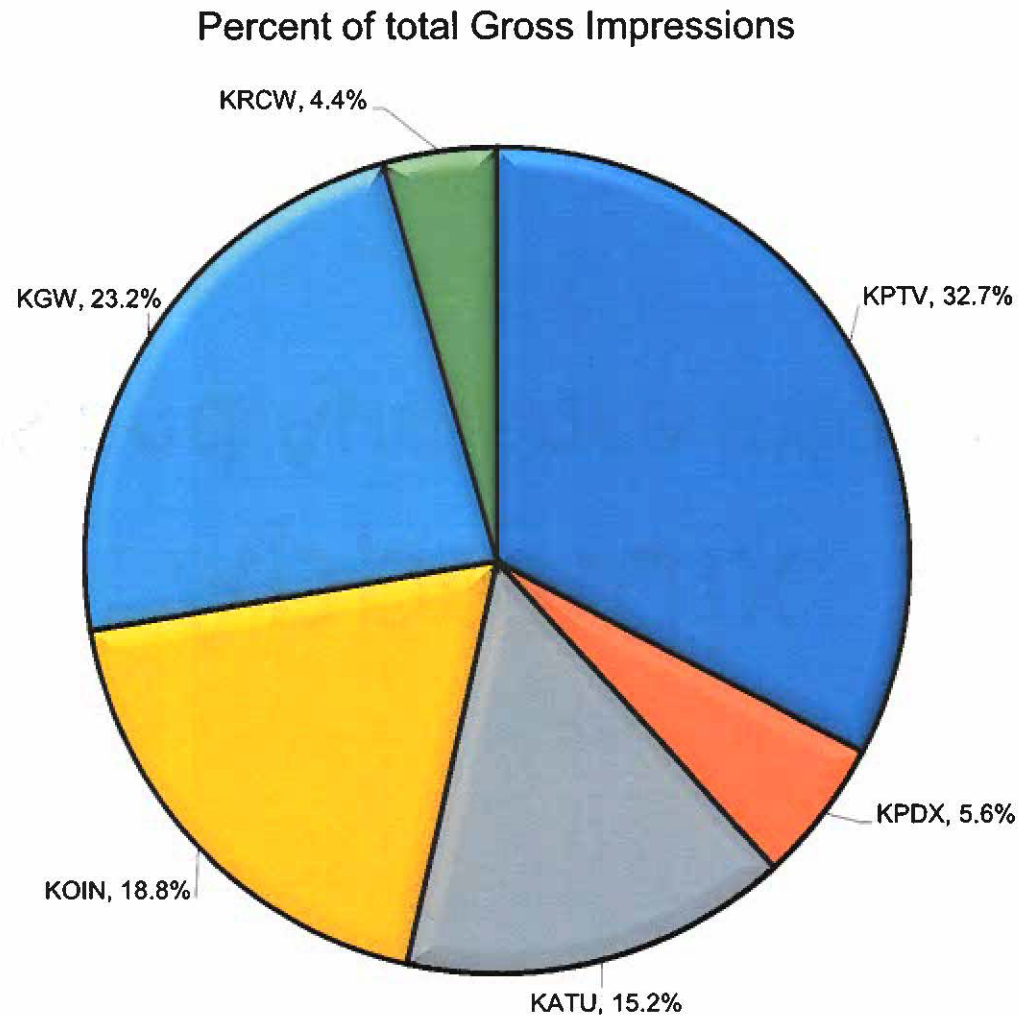
FOX 12 will maintain and have full access to the camera. FOX 12 will have full control of camera shots used on air. By signing this agreement, the City of Newport agrees to a 3-year, non –cancelable commitment to this partnership.



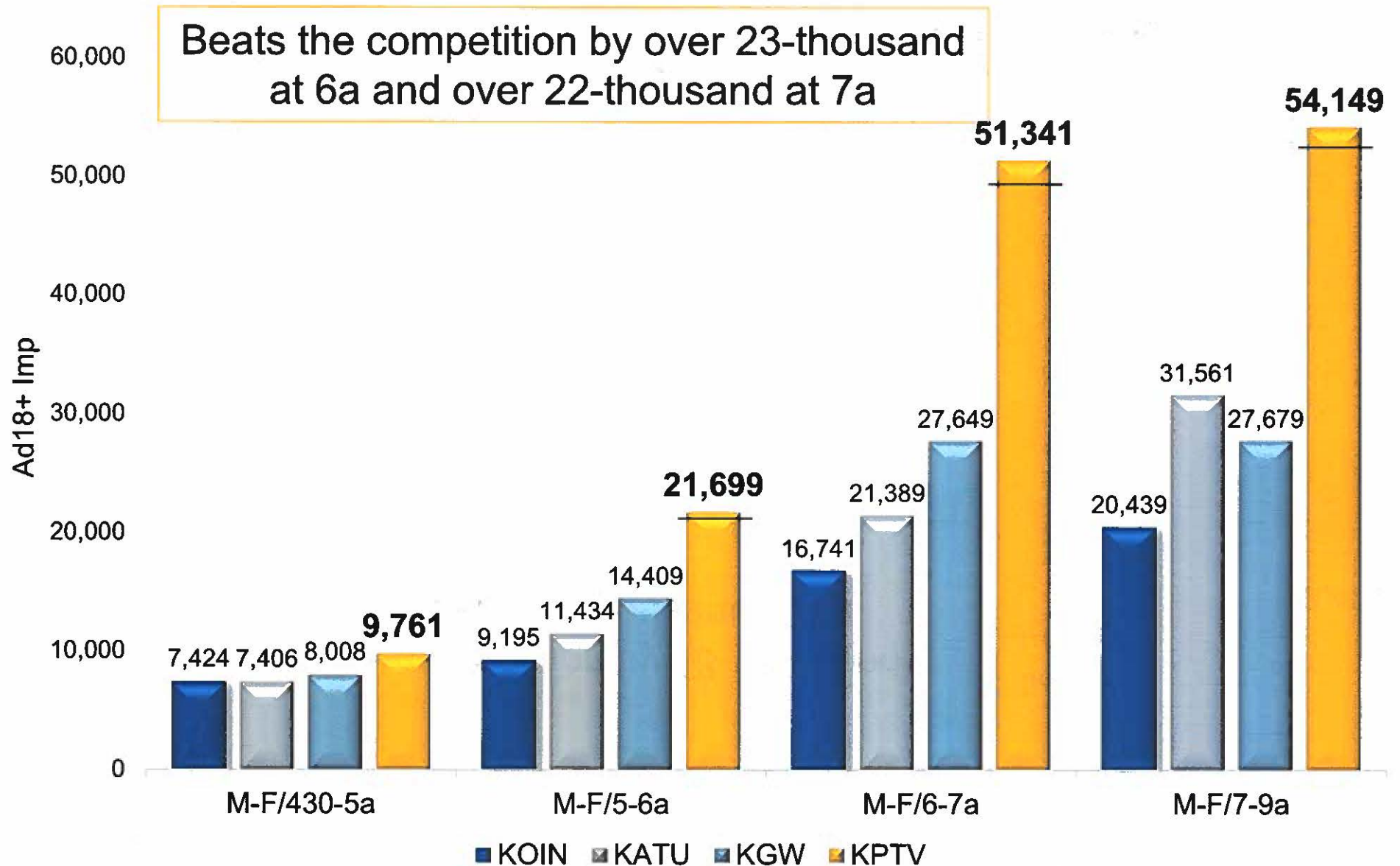
Appendix

Ratings and Audience information

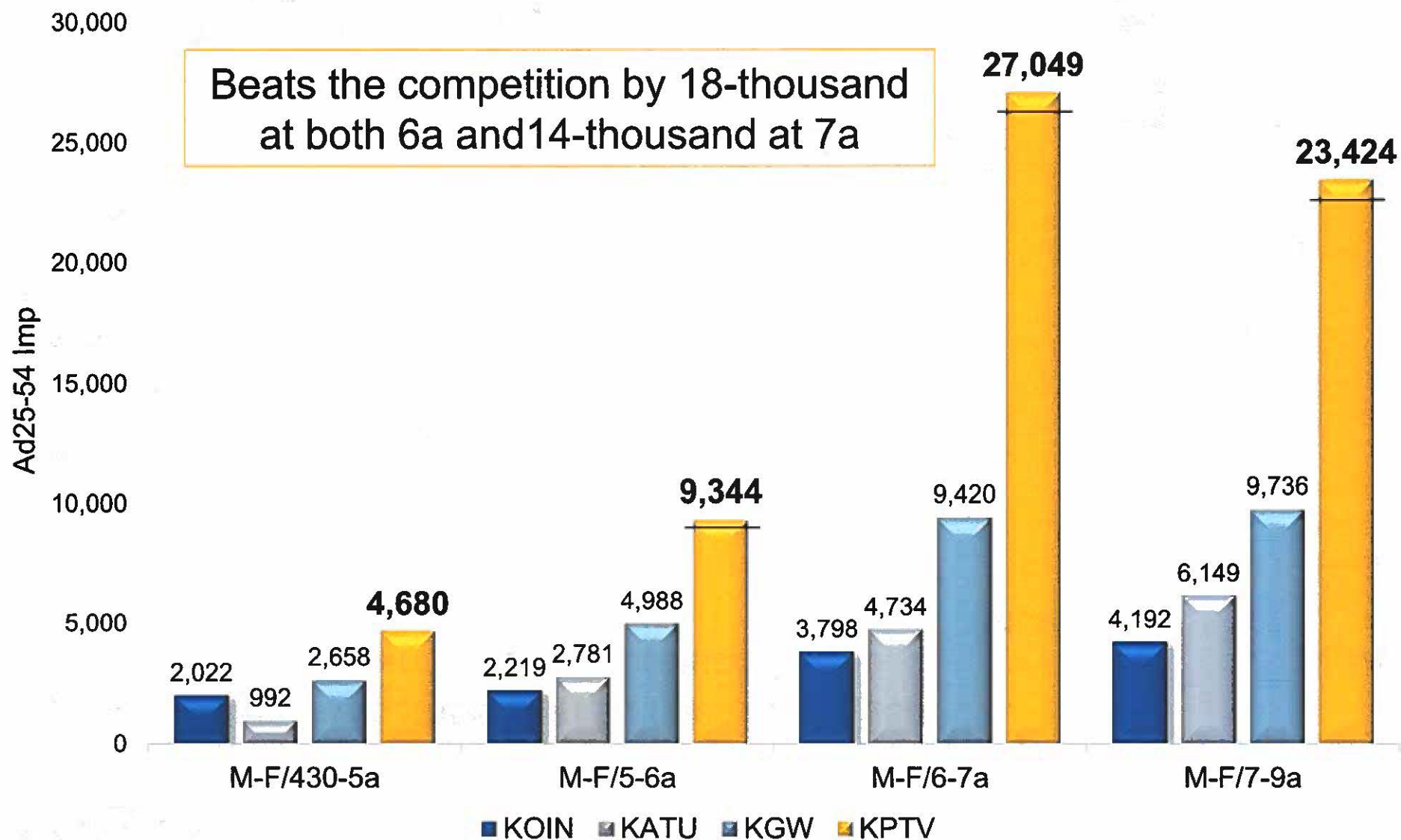
FOX12 and FOX12 PLUS together captured almost 40% of the Ad25-54 gross impressions in Nov '19!



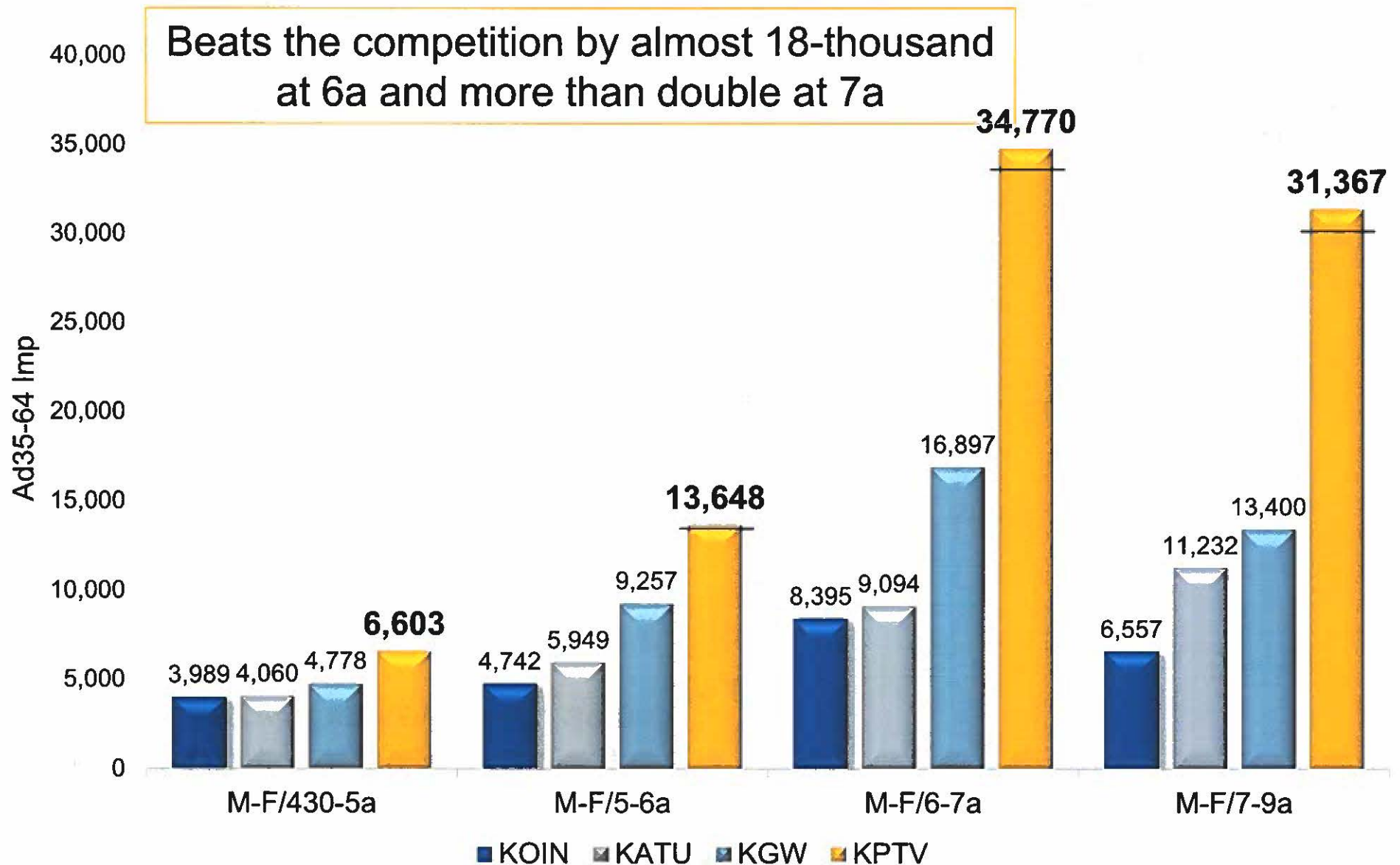
good day Oregon Dominates the competition 430-9a



good day Oregon Dominates the competition 430-9a



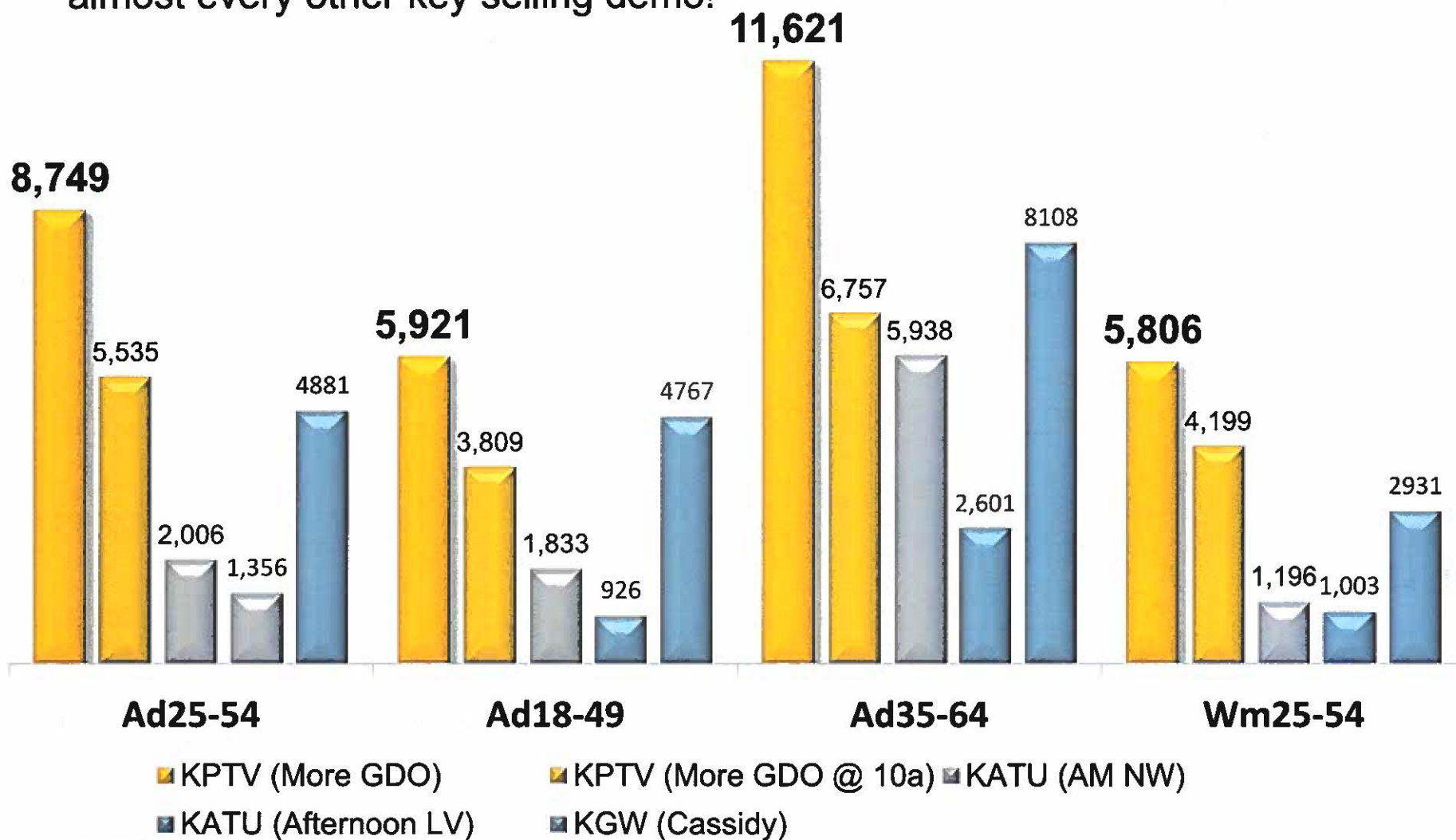
good day Oregon Easily beats the competition 430-9a





The #1 lifestyle program in Portland

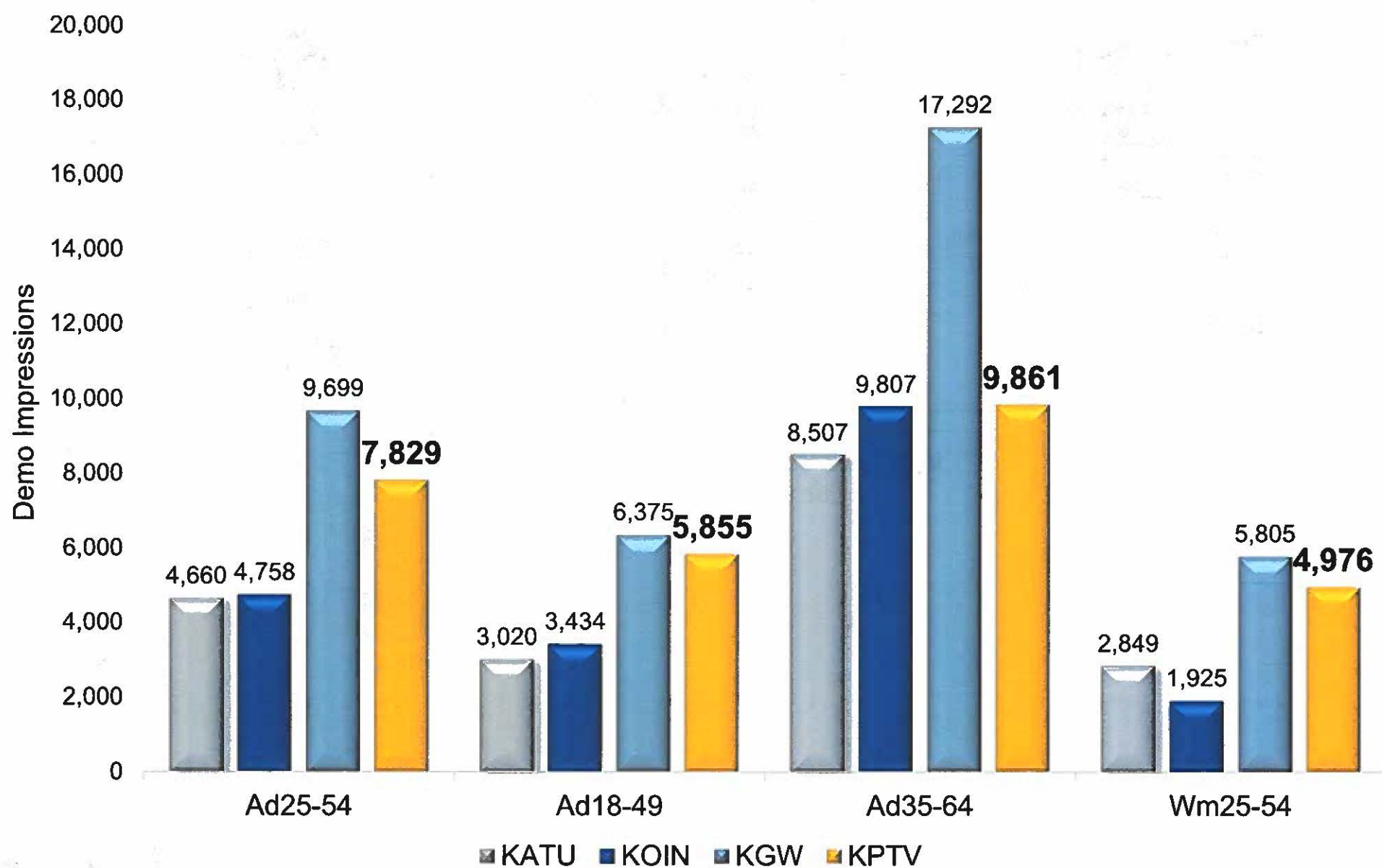
More GDO at 10a solid #2 among almost every other key selling demo!



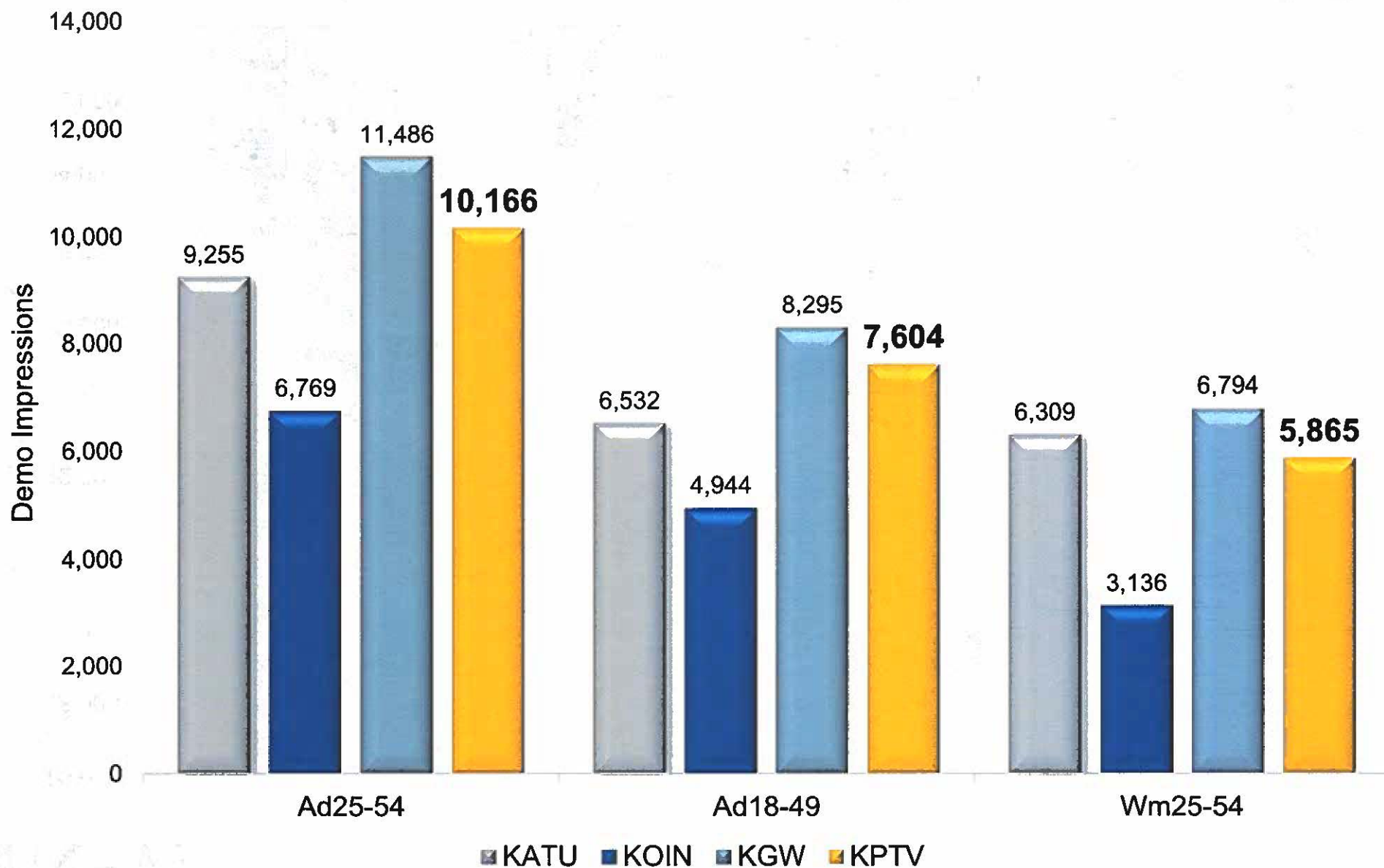
More GDO (M-F/9-10a & 10-11a) & AM NW (M-F/9-10a), Afternoon Live (M-F/2-3p) & Tonight w/Cassidy (M-F/7-730p)

SOURCE: Portland Nielsen Nov '19 (Live+SD)

4 O'CLOCK NEWS Solid #2 in the 4p news time!



5 O'CLOCK NEWS Strong #2 in key selling demos



FOX 12 OREGON & FOX 12 PLUS+ control 58% of the late news

