AUGUST 13, 2021
FLORIDA LEAGUE OF CITIES

SOCIAL MEDIA
REACHING RESIDENTS & STAYING IN BOUNDS

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Technological Timeline

- 2003: LinkedIn debuts
- 2004: Facebook debuts to college students
- 2005: Reddit is founded; YouTube launches
- 2006: Twitter (originally Twttr) debuts; Google acquires YouTube; LinkedIn profitable
- 2007: iPhone debuts in marketplace
- 2009: WhatsApp debuts
- 2010: Instagram debuts
- 2011: Snapchat debuts; Twitch debuts; Nextdoor debuts
- 2012: Facebook acquires Instagram
- 2014: Facebook acquires WhatsApp
- 2015: Discord launches to public
- 2016: TikTok launches

Recent Newcomers

- **Caffeine**
- **Clubhouse**
- **Houseparty**
- **Instagram Reels**
- **Parler**
- **Twitter Spaces**
- **Triller**

Fallen from relevance or existence

- **LiveJournal (1999 - ???)**
- **StumbleUpon (2001 – 2018)**
- **Friendster (2002 -2015)**
- **MySpace (2003 - ???)**
- **Digg (2004 – 2012)**
- **Google+ (2011- 2019)**
- **Vine (2012 – 2016)**
- **Musical.ly (2014 – 2017)**
- **Meerkat (2015 – 2016)**
- **YikYak (2013-2017)**

Issues Created by Social Media Generally

PUBLIC RECORDS

- Is it a Public Record? Who is the Custodian? How long do you keep it?

SUNSHINE LAW

- Are you having a meeting?

CIVIL LAW EXPOSURE

- Access to Government, Freedom of Speech, Constitutional Concerns, Defamation

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Issues Created by Social Media

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Is it a public record?

- **"Public records" means *all documents . . . regardless of the physical form*-**

Section 119.011 (12), Fla. Stat. *Definitions*

- **As each agency increases its use of and dependence on electronic recordkeeping, *each agency must provide reasonable public access to records electronically maintained* and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.**

- Section 119.01 (2) (a), Fla. Stat., *General State Policy on Public Records*

"[A]ny material prepared in connection with official agency business which is intended to *perpetuate, communicate, or formalize knowledge of some type*."

***Shevin v. Byron, Harless, Schaffer, Reid & Assoc., Inc.*, 379 So.2d 633 (Fla. 1980)**

Issues Created by Social Media

Public Records Law

Standard Custodial Inquiry

- Do you have custody?
- Are you able to transfer the records to the clerk, or designated custodian?

Custodial Inquiry Complicated by Texts, Social Media, Etc.

- Are you using government-issued devices?
- If not, the data exists outside of the government's IT network?
- Does the government have access to log-in credentials?
- Who is ensuring necessary preservation?
- How do you handle a dynamic record (e.g. comment thread on a post)
- Are you able to transfer the records to the clerk, or designated custodian?

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Public Records Law

A public record is *not* required to be eternally preserved

"There is *no single retention period that applies to all electronic messages or communications*

***Retention periods are determined by the content, nature, and purpose of records*, and are set based on their legal, fiscal, administrative, and historical values, regardless of the format in which they reside or the method by which they are transmitted."**

- General Records Schedule GS1-SL for State and Local Government Agencies at 13

https://dos.myflorida.com/library-archives/records-management/general-records-schedules/

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Sunshine Law

Public meetings and records; public inspection; criminal and civil penalties All meetings of any board or commission of any . . . municipal corporation . . . at which official acts are to be taken are declared to be public meetings open to the public at all times. . . .

286.011, Fla. Stat.

"The Sunshine Law is to be construed "so as to frustrate all evasive devices"

Town of Palm Beach v. Gradison, 296 So. 2d 473, 477 (Fla. 1974)

IT ALL COUNTS – IT DOES NOT MATTER *HOW* YOU MEET

Issues Created by Social Media

Miscellaneous Legal Issues

Do not block members of the public from public accounts

"[i]f the 'tweets' the public official is sending are public records, then a list of blocked accounts, prepared in connection with those public records 'tweets,' could well be determined by a court to be a public record."

Inf. Op. to Nicole Shalley, Gainesville City Attorney, June 1, 2016.

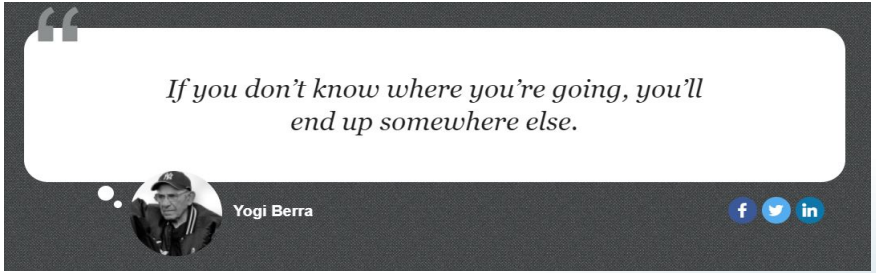
The irony in all of this is that we write at a time in the history of this nation when the conduct of our government and its officials is subject to wide–open, robust debate. . . .*if the First Amendment means anything, it means that the best response to disfavored speech on matters of public concern is more speech, not less*

***Knight First Amendment Institute at Columbia University v. Trump*, (2d Cir. July 9, 2019), *rehearing denied*, 963 F.3d, 216 (Mar. 23, 2020); *on appeal to Supreme Court of the United States* Docket No. 20-197**

***See also*, (1) *Manhattan Cmty. Access Corp. v. Halleck*, 139 S.Ct. 1921 (June 17, 2019); (2) *Attwood v. Clemons*, 818 Fed. Appx. 863 (11th Cir. June 11, 2020); and (3) *Davison v. Randall*, 912 F.3d 666 (4th Cir. 2019);**

Public Records Law

Considerations Going Forward As a Governmental Entity



Social Media Policy

- Stand-alone or as element of public records policy
- Remind elected, appointed, employed of public records duty
- Address retention and transmission policies
- Address government-run accounts specifying who shall have access and permissions
- Address content moderation, while remaining mindful of First Amendment concerns
    - e.g. speech that is obscene, threatening or violent speech, balanced against sensibilities of staff tasked with implementing
- Give guidance and assign responsibility
- Address accessibility and boilerplate language to appear on each site
- Periodically revisit policy to account for dynamic tech landscape

- Resources: (A) Florida League of Cities; (B) Institute for Local Government; (3) Govtech.com

Consider Internal Preservation Methods vs. Third-Party Vendors

- Archive Social, Smarsh, Pagefreezer, Telemessage

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Considerations Going Forward As An Individual

Learn the Utility of Your Chosen Devices & Platforms

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Considerations Going Forward

Learn the Utility of Your Chosen Devices & Platforms

iPhone Screen Capture

Take a screenshot

1. Do one of the following:
   - *On an iPhone with Face ID:* Simultaneously press and then release the side button and volume up button.
   - *On an iPhone with a Home button:* Simultaneously press and then release the Home button and the side button or Sleep/Wake button (depending on your model).
2. Tap the screenshot in the lower-left corner, then tap Done.
3. Choose Save to Photos, Save to Files, or Delete Screenshot.

   If you choose Save to Photos, you can view it in the Screenshots album in the Photos app, or in the All Photos album if iCloud Photos is turned on in Settings > Photos.

Tip: To quickly create a PDF of a webpage, document, or email, take a screenshot, tap the thumbnail, then tap Full Page.

Android Screen Recording

Take a screenshot

1. Open the screen that you want to capture.
2. Depending on your phone:
   - Press the **Power** and **Volume down** buttons at the same time.
   - If that doesn't work, press and hold the **Power** button for a few seconds. Then tap **Screenshot**.
   - If neither of these work, go to your phone manufacturer's support site for help.
3. At the bottom left, you'll find a preview of your screenshot. On some phones, at the top of the screen, you'll find Screenshot capture.

Find, share & edit your screenshot

Tip: If you don't have the Photos app, you're likely running an older Android version. Open your phone's Gallery app and tap **Album view** > **Screenshots folder**.

1. Open your phone's Photos app.
2. Tap **Library** > **Screenshots**.
   - **To share a screenshot,** tap Share.
   - **To edit a screenshot,** tap Edit.

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Considerations Going Forward

Learn the Utility of Your Chosen Devices & Platforms

iPhone Screen Recording

In iOS 11 or later, and iPadOS, you can create a screen recording and capture sound on your iPhone, iPad, or iPod touch.

Record your screen

1. In iOS 14 or later, go to Settings > Control Center > More Controls (Customize Controls in iOS 13 or earlier), then tap next to Screen Recording.
2. Swipe up from the bottom edge of any screen. On iPhone X or later or iPad with iOS 12 or later, or iPadOS, swipe down from the upper-right corner of the screen.
3. Press deeply on and tap Microphone.
4. Tap Start Recording, then wait for the three-second countdown.
5. Open Control Center and tap . Or tap the red status bar at the top of your screen and tap Stop.

Go to the Photos app and select your screen recording.

Some apps might not allow you to record audio. You can't record your screen and use screen mirroring at the same time.

Android Screen Recording

Record your phone screen

1. Swipe down twice from the top of your screen.
2. Tap Screen record .
   - You might need to swipe right to find it.
   - If it's not there, tap Edit and drag Screen record to your Quick Settings.
3. Choose what you want to record and tap **Start**. The recording begins after the countdown.
4. To stop recording, swipe down from the top of the screen and tap the Screen recorder notification .

Find screen recordings

1. Open your phone's Photos app .
2. Tap **Library** > **Movies**.

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Downloading Your Facebook Data

If you're an admin, you can download a copy of your Page. The file includes:

- Posts, photos and videos shared on the Page by people who work on the Page.
- A list of people who have roles on the Page.
- A description of the Page's current settings.
- Page info from the About section.

To download a copy of your Page:

1. From your News Feed, click **Pages** in the left menu.
2. Go to your Page.
3. Click **Settings** at the top of your Page.
4. From **General**, click **Download Page**.
5. Click **Download Page**.
6. Click **Create File**.

When the file is ready, you'll receive an email or a notification, depending on your privacy settings. From the email or notification, click **Download Page** and enter your password to continue. Keep in mind that the link to your file will expire after 4 days.

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Considerations Going Forward

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Instagram Archiving

How do I archive a post I've shared on Instagram?

You can archive a post you've shared to hide it from your profile and make it so your followers and other people on Instagram can't see it. When you archive a post, it keeps all its likes and comments.

To archive a post:

1. Tap or your profile picture in the bottom right to go to your profile.
2. Tap the post you'd like to archive.
3. Tap (iPhone) or (Android) in the top right.
4. Select **Archive**.

Once you've archived a post, you can choose to show it on your profile again. The post will return to its original spot on your profile.

To show an archived post on your profile:

1. Tap or your profile picture in the bottom right to go to your profile.
2. Tap .
3. Tap **Archive**.
4. Tap **Archive**, then tap **Posts** (iPhone) or **Posts Archive** (Android).
5. Tap the post you'd like to show on your profile.
6. Tap (iPhone) or (Android) in the top right, then select **Show on Profile**.

Accessing Archived Stories (while on phone)

- While on the homepage click the icon to navigate to your profile
- Click the icon to get to settings (three horizontal lines)
- Click the archive icon (clock with arrow going counter-clockwise)

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Considerations Going Forward

Learn the Utility of Your Chosen Devices & Platforms

Downloading Your Twitter Data

How to download and view your Twitter archive

1. Go to your Account settings by clicking on the **more** ••• icon in the navigation bar, and selecting **Settings and privacy** from the menu.
2. Under the **Account** section, click **Your Twitter data**.
3. Enter your password under **Download your Twitter data**, then click **Confirm**.
4. Click the **Request data** button. If your Twitter account is connected to Periscope, you'll have the option to **Request data** from Periscope as well.
5. When your download is ready, we'll send an email to your connected email account. From your **settings**, you can click the **Download data** button under the **Download data** section.
6. Once you receive the email, click the **Download** button while logged in to your Twitter account and download a .zip file of your Twitter archive.

Note: Please make sure your email address is confirmed prior to requesting your Twitter archive and that you are logged into your Twitter account on the same browser you are using to download your Twitter archive. Instructions and troubleshooting tips for confirming your email address may be found here. It may take a few days for us to prepare the download of your Twitter archive.

QUESTIONS??

Florida League of Cities

Social Media: Reaching Your Residents, Staying in Bounds

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Agenda

My Philosophy

The Fundamentals

Strategies & Tactics

Platform Stats

Key Takeaways

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My Philosophy

SPEAK THE TRUTH

BE KIND

ENGAGE THOUGHTFULLY

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The Fundamentals

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Identify Your Audience

RESEARCH

SOCIAL MEDIA PLATFORM

TEST

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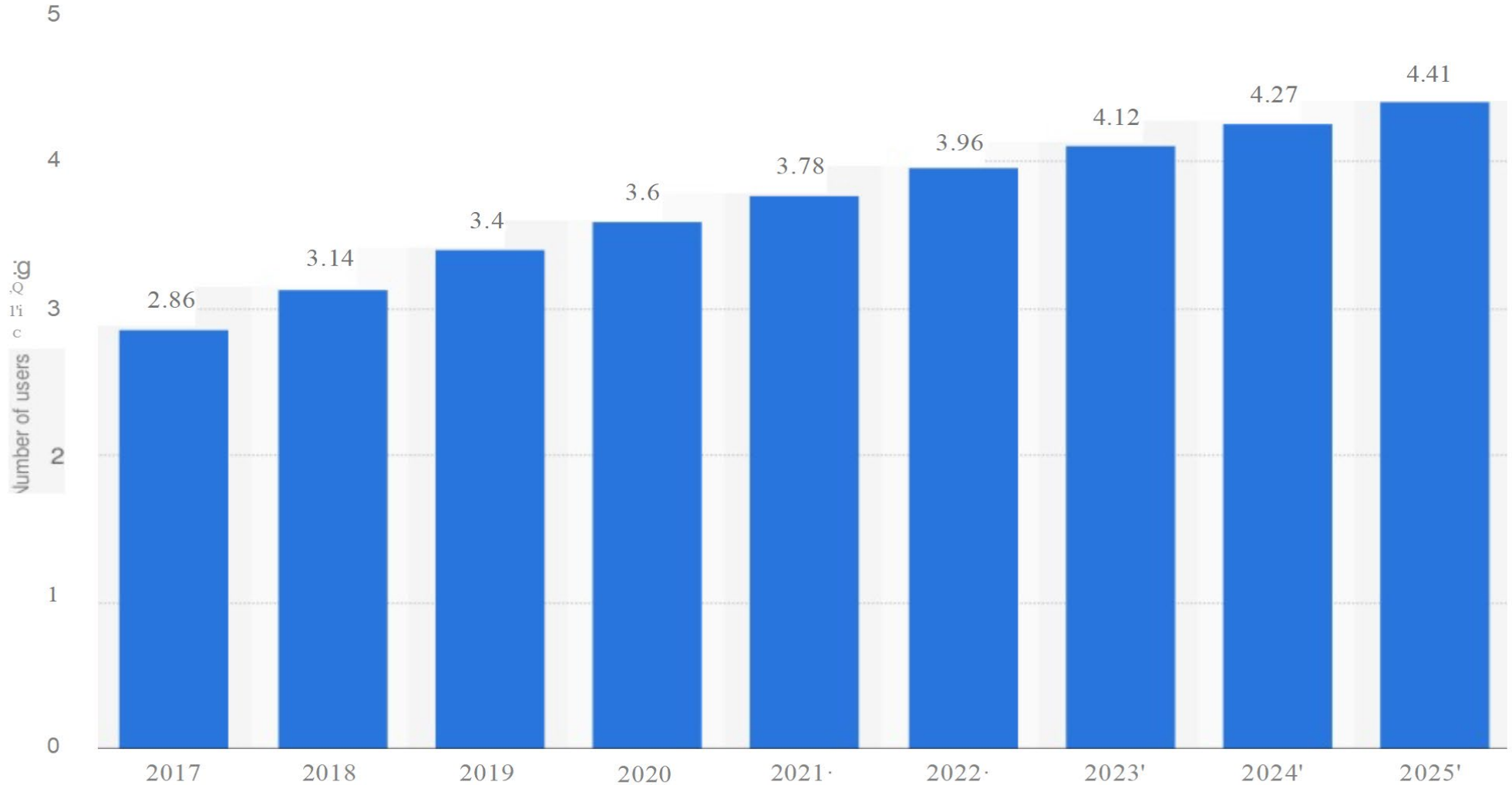
Number of social network users worldwide from 2017 to 2025 {in billions)



Source
Slalisla
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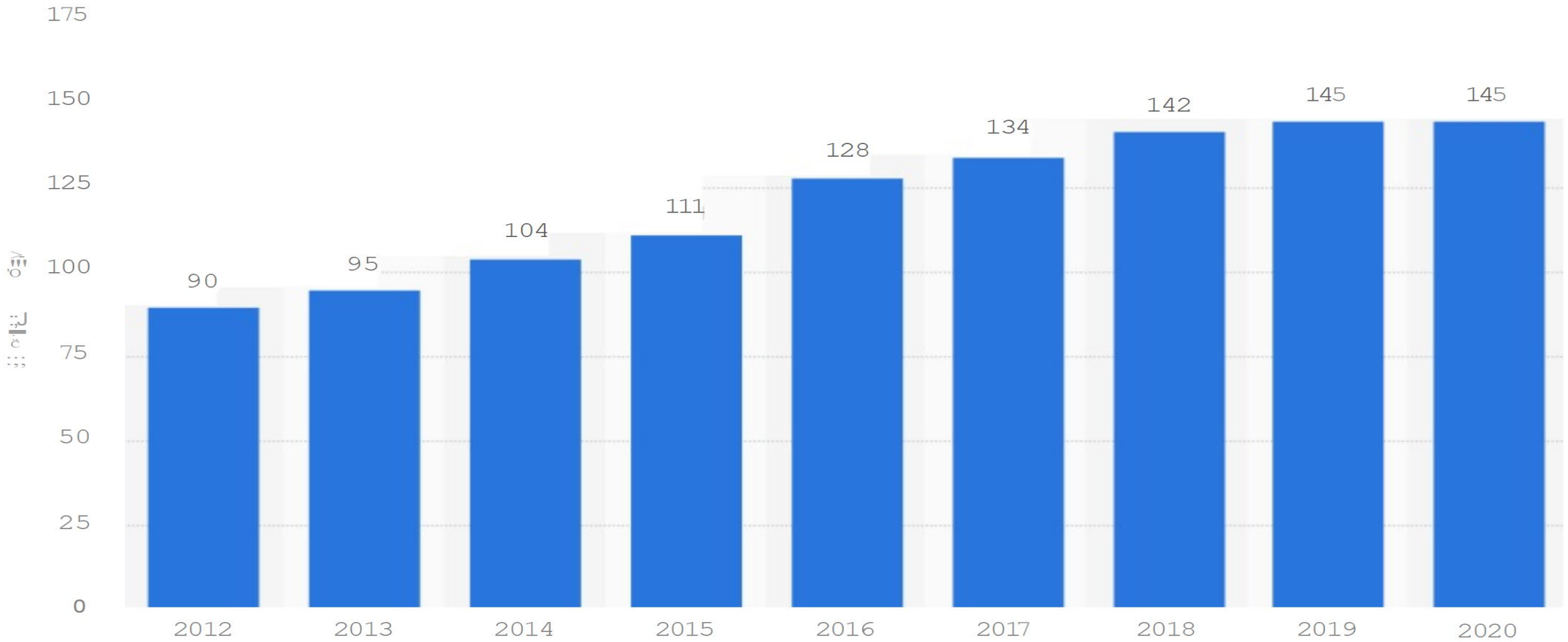
Addtion al In formation :
Worldwide; Slalisl a; 2017 lo 2020

statista

Daily time spent on social networking by internet users worldwide from 2012 to 2020 {in minutes)



Sources
GlobalWebIndex; We Are Social; DataReportal; Hootsuite

Additional Information;
Worldwide; GlobalWebIndex; DataReportal; 2012 to 2020; 16-64 years; social media and m

© Statista 2021

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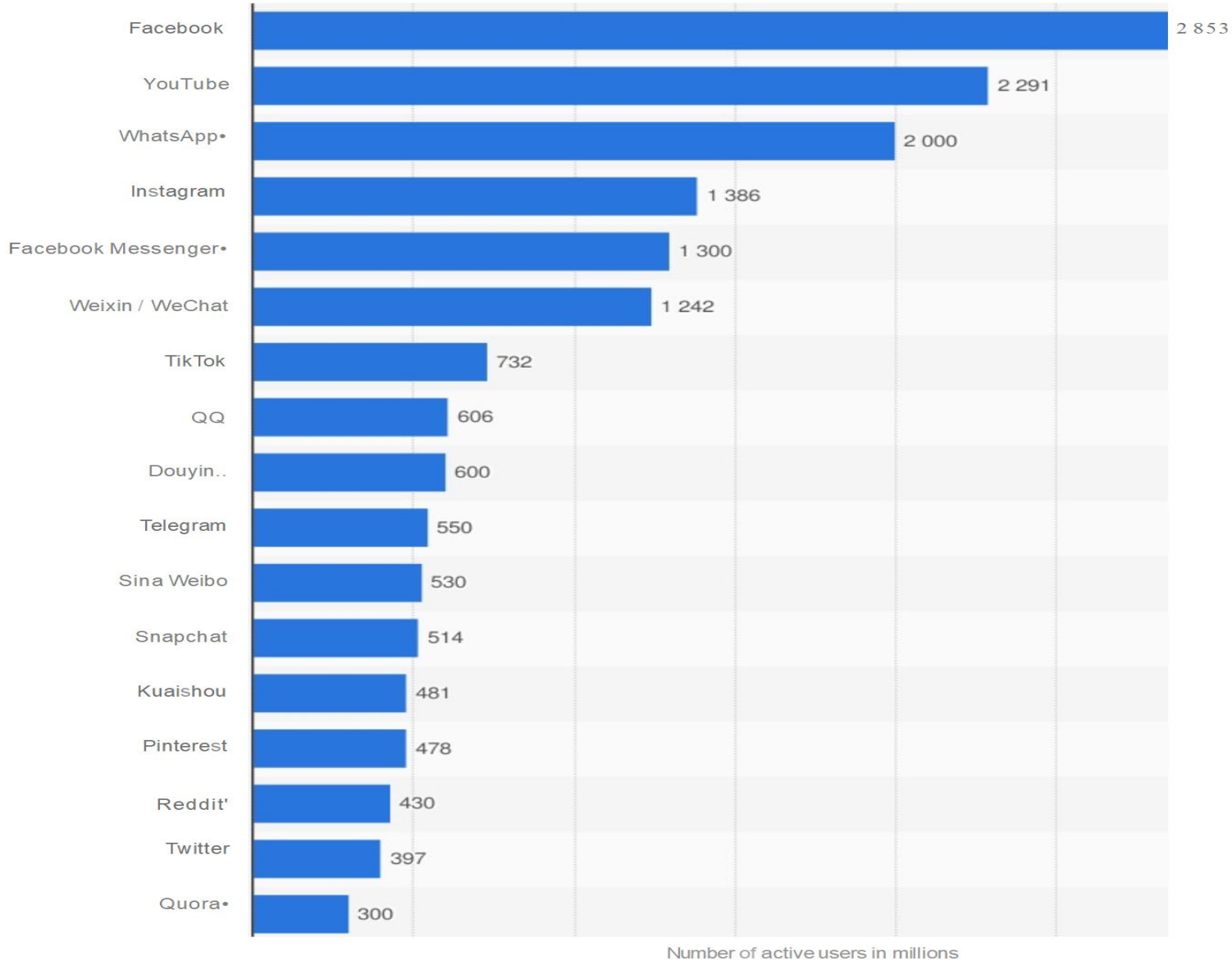
Most popular social networks worldwide as of July 2021, ranked by number of active users (in millions)



Sources
We Are Social; Various sources (Company data); Hootsuite; DataReportal
© Statista 2021

Additional Information:
Worldwide; Various sources (Company data); DataReportal; July 2021; social networks and include Douyin

statista

Platform User Stats

- **81% of people** use Instagram to research products & services
- 82% of Snapchat users are **under the age of 34**
- **1.8 billion people** use Facebook Groups
- 63% of the U.S. population **over age 12** uses Facebook
- **68.7 million** Twitter users in the U.S.

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Platform Usage Stats

- Facebook users spend **34 minutes per day** on the platform
- 79.9% of users only access Facebook **on a mobile device**
- **36% of people** get their news from Facebook
- Snapchat is not seen as a news-focused social media platform by **73% of American users**
- **17% of Americans** get their news from Twitter

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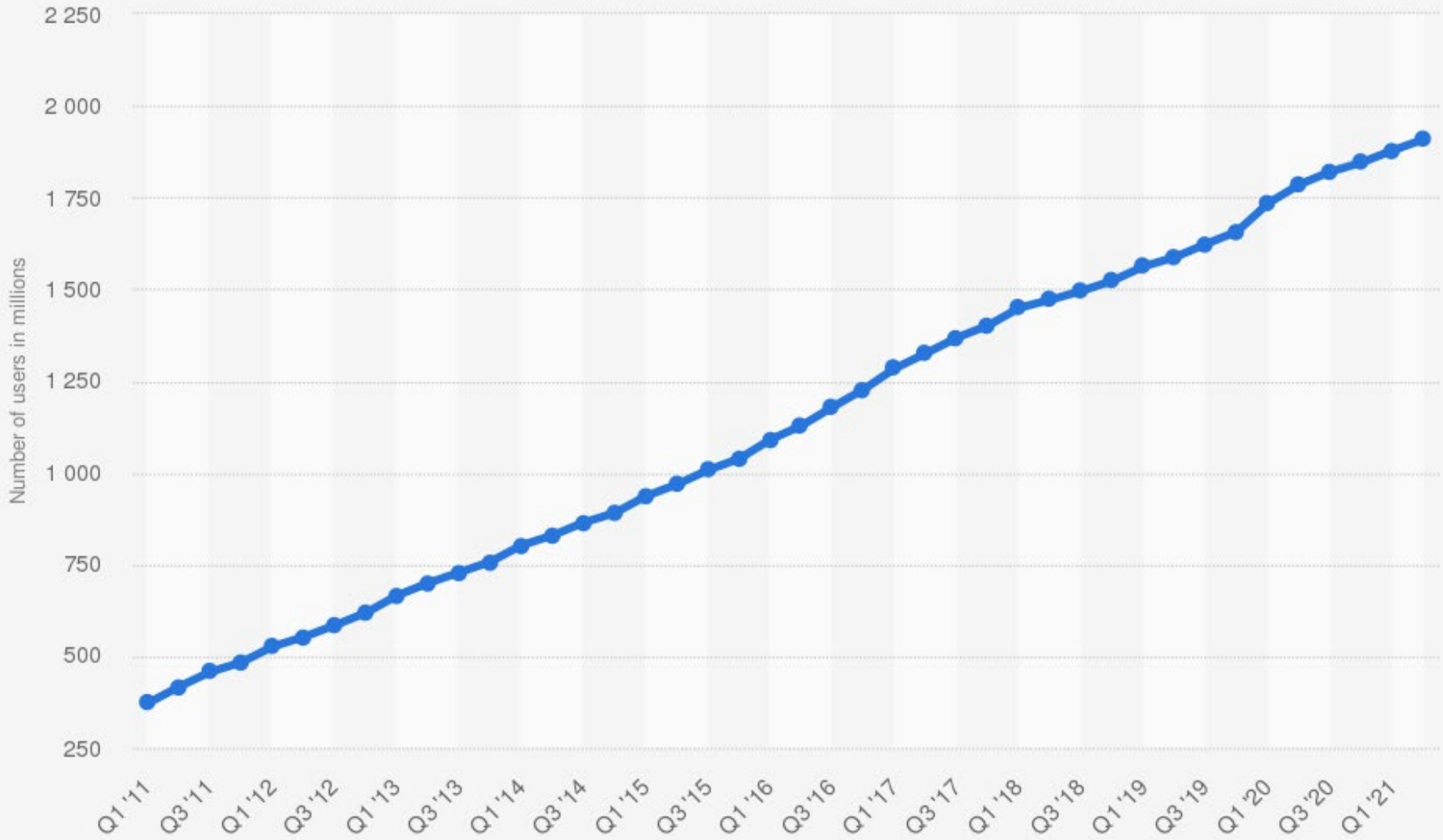
Number of daily active Facebook users worldwide as of 2nd quarter 2021 (in millions)



Source
Facebook
© Statista 2021

Additional Information:
Worldwide; Facebook; Q1 2011 to Q2 2021

Build Your Audience

Create Your Social Channels

- Facebook Page/Group
- Instagram
- Twitter
- YouTube

Develop Informative Content

- Videos
- Graphics
- Gifs
- Stories

Advertise to Your Target Audience

- Search
- Display
- Facebook
- IP-Targeting

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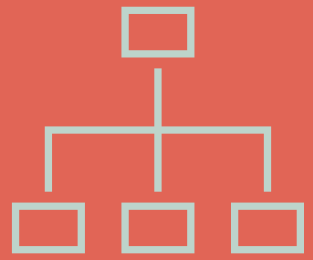
Engage Your Audience

Targeted Advertising

- Facebook Ads
- Search Ads
- Display Ads



Social Media Management

- Frequent Organic Posts/Tweets
- Reply to Post/Tweet Engagement
- Invite Engaged Users to Like Your FB Page

Direct Messages

- Facebook/IG/WhatsApp Messenger
- Text Messages
- Email Communications

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Key Takeaways

EXECUTE THE FUNDAMENTALS

STAY INFORMED

MODIFY

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Keeping up with social media trends…

References

https://www.facebook.com/gpa

https://www.facebook.com/gpa/best-practices

https://blog.hootsuite.com/facebook-statistics/

https://blog.hootsuite.com/snapchat-statistics-for-business/

https://blog.hootsuite.com/twitter-statistics/

https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/

https://www.statista.com/statistics/433871/daily-social-media-usage-worldwide/

https://www.statista.com/statistics/278414/number-of-worldwide-social-network-users/

https://www.statista.com/statistics/346167/facebook-global-dau/