

- + MacHack talk
  - + Publish it yourself?
    - + **Ads**
      - Color full page ads, rotated through major mags, 250K/year
    - + **Distribution**
      - You need large distributors (Ingram, Merrisel) to get into retail stores, they are pitched new products constantly
      - Getting into mail order houses is similarly hard, requires co-marketing fee (extortion)
    - + **Sales/marketing personnel**
      - If you want to have time to program, you need someone to sell the program for you
    - + **Tech support (that damn phone)**
      - If you want to have time to program, you need someone to support the program for you
    - + **Capital**
      - All this takes lots of money
      - Getting VC is hard work, and you'll lose control of company
    - + **Money**
      - You get all the money
      - You get complete control
  - + Evaluating publishers
    - + **Selecting a publisher**
      - Select several publishers
      - Select publishers in your field, but without competing products
      - Select publishers whose software you admire
    - + **Contacting a publisher**
      - Get someone who knows them to introduce you
      - If you have to call up, contact marketing, probably VP
      - Make appt to meet somewhere you can talk (in a hotel, not on the MacWorld floor)
    - + **Showing them your wares**
      - Get a non-disclosure agreement
      - All professional publishers will sign an NDA
      - If you have not published before, have product at least half done
      - After you have published a product with them, you can approach with just an idea, without any code
      - Prototypes, or even painted screen shots, are useful
    - + **Evaluating publishers**
      - + Ads
        - **Check publisher's ads in MacWorld, MacUser, MacWeek**
        - **Publishers often rotate ads, so check for a year or so**
        - **How big are ads, are they color, where are they, how often do they run**
        - **Check mail order ads: are they listed, do they have co-marketing**
      - + Distribution
        - + **Are they in major distributors (Ingram, Merrisel)**

- If not, sales will be minimal, unless its vertical market
- **Do they sell direct to mail order houses**
- **Do they sell direct to customers**
- **Do they do direct mail**
- **Do they have direct sales force for corporations**
- + Tech support
  - **How many tech support people do they have, for how many products**
  - **Do they have mac specific techs**
- + **Call up**
  - How long on hold
  - Could they answer simple question
- + Honesty/Financial strength
  - **Lots of sales are useless if you don't get paid**
  - **Talk to programmer who already publishes thru them**
  - **Ask if they pay on time, and if he's happy with sales**
  - **Don't ask how much he gets paid**
- + Projected sales
  - **Get projected sales and marketing plan**
  - **If they don't have these, or won't show them to you, bail**
  - **Projected sales should go out at least 3 years**
  - **Marketing plan should list ad channels, distribution channels, press release channels, other ways to promote product, size of market, competitors, competitors market share, market share you hope to get, number of units this is, number of dollars this is**
- + Trade shows
  - **Which trade shows do they go to**
  - **How big a booth do they have, in which building, good location?**
- + Gut feelings
  - **Do you like them**
  - **Do you trust them**
  - **Will they push your product**
  - **Will they pay you**
- + **Money**
  - Every deal is unique - there are no standards
  - Royalty ranges from 5% to 15%
  - Payment times range from every month to every 6 months
  - Payment due after close of period ranges from 20 days to 3 months
  - Advance may be negotiated, it may or may not be repaid from royalty, but it will lower royalty rate
  - The publisher that offers the highest royalty may not pay you the most, how many copies can they sell
- + **Signing**
  - + Get a lawyer
    - **Lawyer is like doomsday device - if both sides have them, and both sides show them, neither side will use them**
    - **You can't get a good contract without a lawyer**

- **Get a lawyer who knows software business**
- **Lawyer can help you negotiate**
- + Have your lawyer draw up the contract (if you can afford it)
  - **You have more control over it if you present the contract**
  - **Put in a few things you intend to give on**
- + Contract specifics
  - **Get the whole agreement in writing in the contract**
  - + **Get the royalty terms defined in detail**
    - Is royalty percent of gross or net
    - Define gross or net, define every item that goes into it, and is subtracted before your royalty is computed
  - + Get rights to audit their books
    - *If you don't get this, you will always want it*
    - *If you do get this, you'll never have to use it*
    - *You don't get to see the books, you pay for an accountant to go over the books, and he simply says if they are correct*
    - *You pay for audit, and you only get to audit once or twice a year*
    - *If audit finds discrepancy of more than 10%, they pay for audit, plus missing money, plus penalty, plus you get option out of contract*
  - Define state that contract is enforceable in - governing law
  - Clearly define your support obligations
  - Confidentiality section
  - Mutual noncompete clause
  - Require special copyright for government users
  - Declare that software is not bug free
  - Copyright and trademarks: who owns each
- + **You CAN understand the contract**
  - Make the lawyer clearly explain the contract
  - Don't sign anything you don't understand