

Edgar Filing: COMMERCE GROUP INC /MA - Form 10-K/A

COMMERCE GROUP INC /MA  
Form 10-K/A  
September 29, 2003

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE  
ACT OF 1934  
For the fiscal year ended December 31, 2002

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_ .

Commission file number 001-13672

The Commerce Group, Inc.  
(Exact name of registrant as specified in its charter)

Massachusetts  
(State or other jurisdiction of incorporation)

04-2599931  
(IRS Employer Identification No.)

211 Main Street  
Webster, Massachusetts  
(Address of principal executive offices)

01570  
(Zip Code)

Registrant's telephone number, including area code: (508) 943-9000

Securities registered pursuant to Section 12(b) of the Act:

Title of each Class -----	Name of each Exchange on Which Registered -----
Common Stock, \$.50 Par Value Per Share	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:  
None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes  No

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The aggregate market value of the common stock held by non-affiliates of the registrant, computed by reference to the price at which the common stock was last sold, as of June 30, 2003, was \$786,766,166.

### ITEM 5. MARKET FOR REGISTRANT'S COMMON STOCK AND RELATED STOCKHOLDER MATTERS

The Company has granted stock options to eligible agents of American Commerce. The following table provides a summary of those grants.

GRANT DATE -----	NUMBER OF UNDERLYING SHARES -----	DATE EXERCISABLE -----	EXPIRATION DATE -----	EXERCISE PRICE -----
11/29/99	1,872,380	11/29/04	11/29/09	\$36.32
07/31/00	25,000	7/31/05	7/31/10	\$34.04
07/31/01	225,000	7/31/06	7/31/11	\$42.85
07/31/02	475,000	7/31/07	7/31/12	\$49.50

No cash consideration was received by the Company in exchange for the options. The purpose of the options is to provide an incentive for the agents to maintain their existing business volume with American Commerce. Additional options are granted based on the year-over-year increase in the volume of agency business written with American Commerce.

The options have been offered and sold pursuant to Securities Act Rule 506. Neither the Company nor any person acting on its behalf has offered or sold the options by any form of general solicitation or general advertising, and the Company has exercised reasonable care to assure that none of the recipients is an underwriter within the meaning of Section 2(11) of the Securities Act. Based upon representations from the recipients, the Company has reason to believe that not more than one of the recipients was not an accredited investor, as defined in Securities Act Rule 501.

The right of the recipient to exercise these options is contingent upon the average volume of other-than-Massachusetts private passenger automobile and homeowners direct written premiums placed and maintained with American Commerce for a five-year period specified in each option agreement. If qualified, the recipient may purchase the Company's common stock at the exercise price for a period of five years beginning five years after the date of the grant (the "Confirmation Date"). Unexercised options terminate not later than ten years after the date of the grant (the "Expiration Date"). The options may be exercised only by withholding option shares to pay the exercise price.

The Company provided "put rights" to the holders of the options granted in 1999. These put rights permit the option holders to require the Company to purchase the options, at any time from and after the Confirmation Date through and including the Expiration Date, at a price of \$3.68 per share, which is the difference between the exercise price per option and \$40.00. Our total liability under the put rights, assuming that the options become fully exercisable, would be \$6.9 million.

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For the other information required by this Item, please refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations--Common Stock Price and Dividend Information."

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

- A. (1) The financial statements and notes to financial statements are filed as part of this report in "Part II Item 8".
- (2) The financial statement schedules are listed in the Index to Consolidated Financial Statement Schedules.
- (3) The exhibits are listed in the Index to Exhibits.
- B. No reports on Form 8-K were filed during the quarter ended December 31, 2002.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: September 29, 2003

THE COMMERCE GROUP, INC.

By:/s/ Arthur J. Remillard, Jr.

-----  
Arthur J. Remillard, Jr.  
President, Chief Executive Officer,  
and Chairman of the Board

THE COMMERCE GROUP, INC. AND SUBSIDIARIES  
INDEX TO EXHIBITS(A)

EXHIBIT NUMBER -----	TITLE -----
3.1	Articles of Organization, as amended (B)
3.2	By-Laws (B)
4	Stock Certificate (B)
10.8*	1994 Management Incentive Plan as amended (C)
10.18*	Form of Non-Qualified Stock Option Agreement (D)

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10.19*	Form of Incentive Stock Option Agreement (D)
10.20*	Form of Non-Qualified Stock Option Agreement (D)
10.21*	Form of Stock Option Agreement (D)
10.23*	Form of Book Value Award Agreement (E)
10.24	Reinsurance Agreement with Employers Reinsurance Corporation (F)
10.25*	2002 Amended & Restated Incentive Compensation Plan (G)
10.26	ACIC Agent Growth Option Agreement (G)
10.27	Form of AAA Marketing Agreement
10.28	Form of AAA Service Agreement
21.1	Subsidiaries of the Registrant (G)
31.1	Rule 13a-14(a)/15d-14(a) Certification
31.2	Rule 13a-14(a)/15d-14(a) Certification

(A) Exhibits other than those listed are omitted because they are not required or are not applicable. Copies of exhibits are available without charge by writing to the Assistant to the President at 211 Main Street, Webster, MA 01570.

(B) Incorporated herein by reference to the exhibit with the same exhibit number, filed as an exhibit to the Registrant's Registration Statement on Form S-18 (No. 33-12533-B).

(C) Incorporated herein by reference to the exhibit with the same exhibit number, filed as an exhibit to the Registrant's Form 10-Q for the period ended September 30, 1997.

(D) Incorporated herein by reference to the exhibit with the same exhibit number, filed as an exhibit to the Registrant's Form 10-K for the year ended December 31, 1999.

(E) Incorporated herein by reference to the exhibit with the same exhibit number, filed as an exhibit to the Registrant's Form 10-Q for the period ended June 30, 2002.

(F) Incorporated herein by reference to the exhibit with the same exhibit number, filed as an exhibit to the Registrant's Form 10-Q for the period ended September 30, 2002.

(G) Filed as an exhibit to the Registrant's Form 10-K for the year ended December 31, 2002.

\* Denotes management contract or compensation plan or arrangement.