

Assurances of Voluntary Compliance

How Tobacco Control Programs Can Work with Attorneys General Offices on Tobacco Policy Enforcement

What are assurances of voluntary compliance?

[Assurances of voluntary compliance](#) (AVCs) are legally binding agreements between an attorney general (AG) and a corporation or individual in their state or jurisdiction that is believed to have violated consumer protection law or may violate consumer protection law in the future. While the signing of one of these agreements is not an admission of guilt by the corporation or individual, it does legally require them to abide by the terms of the AVC, which are informed by best practices in the relevant field(s). Failure to abide by the requirements of an AVC may place that party in contempt of court, subjecting them to monetary restitution or other financial penalties.

Over the past two decades, several states have successfully used AVCs to ensure that tobacco retailers that signed an AVC are in compliance with relevant consumer protection law and are selling their products in a manner that is less likely to appeal to youth. Topics that can be covered by AVCs include, but are not limited to:

- Prohibitions on tobacco product advertising that may appeal to youth.
- Limits on what information can be included in tobacco signage.
- Limits on where tobacco advertisements can be placed, or where tobacco products can be sold, at the point of sale.
- Prohibitions on tobacco signage that are outdoors or on exterior facing windows at retail locations within a certain distance of places where youth frequent, such as playgrounds or schools.
- Requiring certain employment and staffing policies for retailers, such as prohibiting any employees under a certain age from selling tobacco products and requiring training on tobacco laws and company policies for employees.

Why are AVCs worth pursuing?

AVCs are an important non-policy option that states can pursue to help achieve key tobacco control goals, such as making tobacco products less appealing and less available to underage consumers and others who are not regular users of any nicotine-containing products. AVCs are legal agreements by which the executive branch enforces existing laws—not legislation. Therefore, states and other jurisdictions can pursue them with in-state retailers in a variety of different political climates, which may otherwise be unconducive to tobacco control priorities or to consumer product regulation in general.

States that have successfully employed AVCs in the retail setting in recent years span the political spectrum in terms of both governors in office and control of legislative bodies. Additionally, AVCs offer an opportunity for states and other jurisdictions to keep tobacco industry marketing tactics in check at the point of sale, which is where the [industry spends](#) an

overwhelming portion of its marketing dollars in recent years. In instances where it may be difficult for a legislative body to pass a tobacco control policy, enforcing existing laws and agreements already on the books to prevent tobacco marketing and sales to underage consumers can be more politically palatable for elected leaders and the general public alike.

How can AVCs lead to expanded tobacco control program partnerships?

AVCs represent a natural opportunity for the tobacco control program to partner with its AG office. Most state AG offices are already involved with tobacco enforcement related to the provisions of the [Master Settlement Agreement \(MSA\)](#), or a similar agreement for jurisdictions that are not parties to the MSA. This involves ensuring the state receives moneys from the tobacco industry parties each year, and while the MSA and other agreements cover marketing practices that target youth, these apply only to specific tobacco manufacturers—not retailers that sell their products. If a tobacco control program does not have an existing relationship with the state AG's office, it can be helpful to reach out to the assistant attorney general who works on MSA enforcement. This is an opportunity for both offices to learn more about one another's work and identify any shared priorities.

State Case Study: Kansas

In the interest of enforcing state law prohibiting the sale of tobacco products to minors, Kansas is party to [nine multi-state AVC agreements](#), each covering a different tobacco retail chain. In exchange for retailers' compliance on several different policies, Kansas agrees to not persecute the retailers for violations that took place prior to the effective date of each AVC. Kansas also has two separate AVCs with Santa Fe Natural Tobacco Company covering organic tobacco advertisements and the distribution of name brand merchandise.

Additionally, AVCs present an opportunity to engage state health officials, chronic disease directors, and other health agency leadership on the topic of tobacco retail assessments, as the retail environment is so closely tied to tobacco product initiation, reduced cessation success, and the proliferation of tobacco-related disparities. Retailer assessments are an important tool that can help to ensure that the appropriate retailers/parent companies are prioritized by AVCs to maximize their impact. Retailer assessments may also prove useful in the regulation and control of recreational cannabis, an emerging public health challenge in the several jurisdictions where the sale of such products is legal.

Additional resources

- [Assurances of Voluntary Compliance Resources and Tools](#) – Counter Tobacco
 - [Assurance of Voluntary Compliance Snapshots](#)
 - AVC webinar [slides](#) and [recording](#) from the Healthy Point of Sale series
- [Using Retailer AVCs as a Tool in Tobacco Control](#) – Public Health Law Center
- [Tobacco](#) – U.S. Federal Trade Commission
- [Assurances of Voluntary Compliance: A Regulatory Mechanism to Reduce Youth Access to E-Cigarettes and Limit Retail Tobacco Marketing](#) – American Journal of Public Health