engaged. In *R. v. Camrost*, an unreported decision of the Ontario District Court dated May 10, 1985, the contract of purchase and sale of a condominium developer required consent of the developer to any resale; consent, however, was only given if the resale price were not less than price of comparable units for sale at the same time. While the accused was convicted with respect to its attempt to influence the resale price of one owner, a company in the real estate business, it was acquitted on charges relating to attempts to influence individuals who had purchased condominiums as a real estate venture. The Court found that because these latter purchases were only isolated activities and a sideline to the regular business of these individuals, these persons were thus not "engaged in business" within the meaning of the Act.

It is attempts to influence price "upward" that are proscribed. Unlike the broader definition of RPM captured under U.S. law which generally prohibits attempts at agreements to fix prices in whatever direction by any means other than through unimpeded market forces, in Canada attempts to influence prices downward would not violate this particular provision—although arguments between firms to fix prices downwards by a monopsonist cartel would be captured under the general conspiracy provisions, s. 45.

Only attempts made through "agreement, threats, promises or any like means" are prohibited; it is not illegal to use discussion, persuasion, complaints, suggestions, requests or advice. Whether the facts involved in any particular case lead to a characterization of the attempt as an"agreement, threat, promise or other like means" or simply discussion, persuasion, etc. is a finding of fact to be made by the trial court. In *R. v. Brown Shoe Co of Can. Ltd.*, an unreported decision of the Ontario Provincial Court dated July 9, 1982, the Court held that "the voicing by the salesman ... of a complaint of a competitor and the suggestion that he should charge the suggested retail price, when the salesman knew that it would not affect the pricing policy, is not a "like means" of an agreement, threat or promise". An example of a different conclusion may be found in *R. v. Moffats Limited (1957)*.[40] Involved in this case was a cooperative advertising plan designed to induce dealers to advertise at prices at or above those stipulated by the manufacturer. According to this plan, Moffats paid 50% of dealer advertising costs on the condition that prices in the ads were not below those fixed by Moffats. Beyond this inducement, the accused made no other attempt to influence prices nor was it unusual for dealers to make occasional sales at prices below those advertised. Nonetheless, the accused was convicted. In its denial of an appeal based on the argument that the Crown had failed to show the requisite intent to control resale prices, the Ontario Court of Appeal pointed out that intent was adequately indicated by the cooperative advertising agreement itself and that such agreements fell within the proscription.

[40] 25 C.R. 201 (Ont. C.A.), (1957).