The various contributions to this book demonstrate in different ways how much the gambling market in the European Union and its Member States is in a state of flux. Not only is the size of this market growing at a fast pace, but also its diversity, the latter mainly as a result of the rapid development of online gambling. The effect of all this, of course, is that it is becoming an increasingly attractive proposition for companies to operate in this expanding market, but it also means that national governments, which traditionally have direct or indirect control of this market, are coming under growing pressure to relinquish their control and open up the market to both national and foreign gambling companies.

It is easy to understand why the Member States usually have difficulty responding to this challenge. For centuries national governments in Europe, for all sorts of reasons, have been responsible not only for the organisation of the gambling market, but also for the nature, scale and integrity of the forms of gambling available. There is no doubt that these reasons owe much to political ideology and financial raison d’état; nor can it be denied, however, that social problems are a significant factor in this context. On the one hand, we are talking about various types of crime that are justifiably associated with the organisation of gambling and, on the other, about varying degrees of addiction that participation in gambling, or at least in some forms of it, can cause.

Since the Member States together make up the European Union, and within that form the Economic Community, they do not have the liberty or the autonomy to formulate an appropriate answer to the aforementioned challenge of their own individual accord. On the contrary, in working out their response, they are bound by the principles underlying the organisation of the internal market. The problem is that, in a sense, these principles are relative, not absolute, i.e. they offer room for exceptions. This situation creates the major difficulty of determining for which reasons exceptions are justified. In this case it means that many Member States tend to invoke crime and addiction problems to defend their viewpoint that offering gambling activities may be a service in economic terms, but that these same problems justify placing restrictions on providing this
service in the internal market. In many cases these restrictions specifically boil down to maintaining and sometimes even strengthening the monopolies that the Member States have established, directly or indirectly, in the key sectors of their gambling market.

This viewpoint is challenged not only by private gambling operators in Europe, understandably so, but also by the European Commission, which – as the Netherlands’ case demonstrates – suspects Member States of improperly invoking these problems in order to ensure that the revenues derived from gambling go into the public treasury and to so-called good causes. In its successive judgments, the European Court of Justice has never dared go this far, though it has sympathised with the problems that the Member States have to contend with in this market. The upshot of these conflicting perspectives on the situation is that not only do Member States not know where they stand in the short and longer term; private entrepreneurs are also left in a state of uncertainty. The consequence of this is that we are seeing all kinds of remarkable developments and happenings in the individual Member States. For instance, the French government recently said that it wants to open up online gambling to private operators, but is unwilling to give up its traditional monopolies under any circumstances. Furthermore, a private sports betting operator claimed some time ago that ‘Europe’ gives him the freedom to open a betting shop in Sweden, in Stockholm, contrary to existing national legislation.

These events signal the fact that, sooner or later, the Member States will have to give up their established positions in the gambling market and that private gambling companies will supplant existing national monopolies. We are a long way off reaching that stage, however: not all Member States want to follow the example of the UK, or even that of France, and up to now they have been assured of the support of the European Court of Justice, within certain limits.

Another factor that plays into their hands is that so little empirical research into crime and addiction problems has been conducted in the European Union. This enables them to invoke these problems to defend their viewpoints without undue trouble, even up to the level of the Court of Justice. The European Commission may find this regrettable, but it cannot, of course, demand that the Member States make up the huge deficit in research immediately. In any case, they are not in a position to do so even if they wanted to, for the simple reason that most Member States do not have enough researchers with the right qualifications to undertake sound research in this field.

Conversely, the lack of sufficient good empirical research in the field of gambling makes it difficult for the European Commission, and perhaps even the European Council and the European Parliament at some stage, to impose its will on the Member States. How could the Commission – without a sound basis – garner sympathy from the Council and the Parliament for its view of the situation? This