Chapter 5

*Ex Ante* Evaluation of Legislation: between Puzzling and Powering

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I. *Introduction*

Those interested in the theory and practice of *ex ante* evaluation of policy proposals are living in paradoxical times. On the one hand, the heydays of *ex ante* policy evaluation lie at least three decades behind us.¹ In the 1960s and 1970s its enthusiastic embrace by scholars sparked off policy analysis as a new academic discipline in the US; and led to scores of new courses in Planning, Programming, Budgeting Systems (PPBS) and Cost-Benefit Analysis (CBA) in political science and public administration in Western Europe. At first, practitioners uncritically followed academic interest. Emulating US government practice, in the Netherlands, e.g., the Commission for Policy Analysis (COBA) was established. Its explicit purposes were (a) to add policy-analytic methods and techniques to the bureaucrats’ toolkit of knowledge and skills; and (b) to establish high-level policy analysis staff units in every department.² Similar developments were seen in countries like the United Kingdom, Germany, and Sweden.

However, in the subsequent decades the interest in *ex ante* policy evaluation, PPBS and CBA waned for a number of reasons. First, in political and administrative practice attention shifted to implementation deficits of policy programs and

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projects adopted previously on the basis of very favorable *ex ante* evaluations. Second, trial-and-error learning through *ex post* summative or formative evaluation of a policy’s or policy program’s outputs or even outcomes became the new trade mark of good policy analysis. Third, empirical research into the actual uptake of scientific knowledge through *ex ante* policy analysis and other types of policy research showed very disappointing results for scientists. On top of that, fourth, cognitive psychologists and social judgment researchers, in numerous experiments, showed that expert judgment was bias-ridden, and not necessarily better that judgment by lay people or experienced non-experts. All in all, *ex ante* evaluation was disenchanted; *ex post* evaluation was lifted to the position of more cumbersome, but most sensible route for improving policy practice.

In view of these trends in the past, interest in *ex ante* policy evaluation experiences a strong revival. This goes both for the EU and OECD at the international level, and for national levels of government. In the Netherlands, e.g., experiences with CBA for large infrastructural works outsourced by public agencies to commercial consultants led to new national standards for the proper conduct of CBA. The Department of Finance even managed to revivify old PPBS ideals and write these into novel comptrolling legislation for all levels of government under the new label “From Program Budgeting to Policy Accountability”. In the UK, the trend is manifest in the movement for Evidence-Based Policy. Emulating ideas popularized through ‘evidence-based medicine’, the hope is that policy learning,

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8 See OECD, Regulatory Impact Analysis (RIA) Inventory (Paris 2004).