Double Jeopardy Law

Idea In Short

Assume that weak growth usually reflects a demand problem before it reflects a loyalty miracle waiting to happen. The Double Jeopardy Law matters because smaller brands tend to face two disadvantages at once: they reach fewer buyers and they are purchased a bit less often. The immediate leadership decision is to prioritize broadening reach and availability instead of expecting loyalty programs alone to reverse scale disadvantages. Executives often believe small brands can win mainly by deepening devotion among existing customers. The evidence suggests that market structure usually works against that hope. Growth more often comes from expanding the buyer base than from dramatically changing purchase frequency among a narrow few.

The Double Jeopardy Law is one of the most important empirical patterns in marketing because it explains why small brands usually struggle in more than one way at once. They tend to have fewer buyers and those buyers also tend to purchase the brand slightly less often than buyers of larger brands. This creates a structural disadvantage that many managers underestimate when they design growth strategy.1

Why small brands face two disadvantages

The first disadvantage is obvious: lower penetration. Fewer people buy the brand. The second is subtler but still important: the average buyer of the small brand tends to buy it a bit less often. Together these effects mean that small brands cannot usually rely on a hidden loyalty reservoir to compensate for limited reach.

This matters because managers often interpret underperformance as a relationship problem that can be fixed mainly through deeper engagement with current customers. In many categories, that expectation is too optimistic. Behavioral differences in loyalty exist, but they are usually not dramatic enough to overturn the disadvantage of having too few buyers in the first place.

That is why the law is strategically clarifying.

Why loyalty-only strategies disappoint

When leaders believe growth will come mainly from existing customers buying much more often, they may overinvest in retention mechanics, club structures, or highly targeted relationship programs while underinvesting in broader mental and physical availability. Those programs can have value, but they rarely substitute for reach. A small base limits how much cumulative lift loyalty tactics can produce.

The implication is not that loyalty should be ignored. It is that loyalty improvements usually sit on top of brand size rather than replacing it. Larger brands often show slightly stronger loyalty partly because they are easier to remember, easier to find and more normal to buy across more situations. The behavioral pattern is therefore linked to scale and availability, not only to emotional intensity.

Managers who miss this relationship can end up optimizing the wrong lever.

What the law means for growth strategy

The Double Jeopardy Law points leaders toward penetration growth. More category buyers, more buying occasions, better distribution, stronger salience and easier access usually matter more than trying to engineer exceptional devotion in a narrow audience. This does not make the brand generic. It makes the growth logic more realistic.

The framework is especially useful when teams are debating whether to focus on heavy users or on broader reach. In many mature categories, the stronger answer is to widen the buyer base while maintaining basic ease and distinctiveness. That is where cumulative volume tends to come from.

It also disciplines expectations by showing that smaller brands rarely behave like niche loyalty machines on their own.

What leaders should remember

Leaders should ask a simple question when evaluating slow growth: is the brand primarily short on loyalty intensity or short on buyers. In many cases, the second issue dominates. If so, the answer lies in reach, salience and access before it lies in elaborate relationship architecture.

This is the enduring value of the Double Jeopardy Law. It redirects attention from romantic theories of intense loyalty toward the practical mechanics of brand growth. Smaller brands usually need more buyers first and only then do frequency gains compound meaningfully.2, 3

- 1How Brands Grow
- 2Ehrenberg-Bass Institute
- 3Brand Loyalty And Market Structure

Summary

The Double Jeopardy Law remains influential because it gives managers a realistic view of brand growth. Small brands are not only smaller in penetration. They also tend to be bought less often, which compounds the challenge. That pattern does not mean differentiation and experience are irrelevant. It means that growth strategies built only on intensifying loyalty often overestimate how much behavior can be changed within a limited customer base. Leaders who understand this law tend to focus more on being easy to notice, easy to buy and present in more buying situations. The practical lesson is to solve reach and accessibility before expecting unusual loyalty dynamics to do the heavy lifting.